

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

June 21, 2022

6:00 P.M.

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

ABSENT: Marty Barington, Susan Tjarks

PRESIDING: Mayor Bob Everson

AGENDA:

Moved by McCardle, seconded by Sabers, to approve the following items on the consent agenda:

- a. City Council Minutes
 1. City Council June 6, 2022.
- b. Committee Reports
 1. Planning Commission May 23, 2022.
- c. Department Reports
 1. Sales Tax Collections (May),
 2. Finance (May),
 3. Building Permits (May),
 4. Police (May),
 5. Fire/EMS (May),
 6. Code Enforcement (May), and
 7. Airport (May).
- d. Request to purchase nine APX 6500 Mobile Radios, thirty-two APX 6000 Portables, required components, programming, and installation.
- e. Purchase of Curbtender off of Sourcewell Contract Project #2022-16.
- f. Accept Grant Award from Bass Pro Shops and Cabela's Outdoor Fund in the amount of \$25,000.00.
- g. Automatic Supplement to Parks-Sports Complexes in the amount of \$1,245.00 from a donation of funds.
- h. Exchange Club of Mitchell Fireworks Permit for July 4, 2022.
- i. Special Event Permit for Cruising for a Cause on August 27, 2022.
- j. Raffle Permits
 1. Palace City Pedalers with the drawing to be held on August 20, 2022 and
 2. Davison County Democrats with the drawing to be held on October 24, 2022.
- k. Volunteer Board Appointments
 1. Appoint Clayton Deuter to the Parks & Recreation Board for the term of July 2022-

June 2025.

l. Change Order #1 for Foster Street Bridge Rehabilitation Project #2021-02 increasing the contract amount by \$10,866.00 to BX Civil & Construction, adjust contract amount to \$695,866.00.

m. Set date of July 5, 2022 for hearing

1. On the application to transfer RL-19079 Retail (on-sale) Liquor License from Anisa Deinert dba Jade’s, 107 North Main Street to Anisa Deinert dba Jade’s, 107 North Main Street due to reconfiguration of license.

n. Approval of Gas and Fuel Quotations

<u>Vollan Oil</u>	<u>Requested Gallons</u>	<u>Bid Gallons</u>	<u>Price per Product</u>	<u>Total Bid</u>
On Road Diesel-#2	1,500	1,500	\$4.69	\$ 7,035.00
Off Road Diesel-#2	6,000	6,000	\$4.415	\$26,490.00
Total Bid:				\$33,525.00

o. Pay Estimates June 21, 2022

Pay Estimate #1 in the amount of \$3,570.00 for 9th & 5th Reconstruction #2021-07 contracted to Brosz Engineering,

Pay Estimate #14 in the amount of \$4,020.00 for Landfill Cell #4 #2021-08 contracted to Helms & Associates,

Pay Estimate #15 in the amount of \$600.00 for Landfill Cell #4 #2021-08 contracted to Helms & Associates,

Pay Estimate #1 in the amount of \$3,531.94 for Firesteel Creek NAWCA Grant Administration #2021-14 contracted to Matt & Michaela Doerr,

Pay Estimate #PH2-1 in the amount of \$1,144.50 for Lake Mitchell-Phase II #2021-20 contracted to Barr Engineering,

Pay Estimate #15 in the amount of \$29,063.17 for North Wastewater Improvements #2021-31 contracted to HDR Engineering,

Pay Estimate #7 in the amount of \$772.87 for Risk & Resilience #2021-36 contracted to HDR Engineering,

Pay Estimate #4 in the amount of \$13,703.75 for Drake Field Turf #2021-54 contracted to Mid-America Golf & Landscape,

Pay Estimate #2 in the amount of \$4,491.64 for Rock Chips #2022-10 contracted to Spencer Quarries,

Pay Estimate #1 in the amount of \$2,420.00 for 1st & Main/7th & Main Signals #2022-08 contracted to HR Green, and

Pay Estimate #1 in the amount of \$23,443.02 for Dry Run Creek Lighting #2022-33 contracted to Builders Electric, LLC.

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 MAY 29, 2022 – JUNE 11, 2022: City Council \$3,411.04, Mayor \$1,474.35, City Administrator \$5,686.92, Attorney \$4,601.23, Finance \$13,626.34, Human Resources \$3,703.81, Municipal Building \$3,139.60, Information Technology \$2,809.76, Police \$69,737.98, Traffic \$5,148.02, Fire \$34,698.68, Street \$29,944.46, Public Works \$18,534.92, Cemetery \$7,415.82,

Animal Control \$1,660.64, Library \$14,696.55, Recreation & Aquatics \$27,101.78, Recreation Center \$15,586.66, Sports Complexes \$17,880.35, Cadwell Concessions \$1,610.46, Parks \$21,837.27, Supervision \$5,666.66, E911 \$20,706.49, MVP \$666.31, Palace Transit \$23,634.15, JVCC \$852.31, Nutrition \$3,903.56, Water Distribution \$14,385.22, Sewer \$16,612.29, Airport \$2,672.72, Recycling Program \$6,958.64, Waste Collection \$6,000.65, Landfill \$9,435.81, Corn Palace \$28,801.56, Golf Course \$9,489.38, Campground \$2,217.60, Emergency Medical Services \$30,289.00.

NEW HIRES:

CORN PALACE: Robert Barnes-\$10.45, Dakota Becker-\$11.45, Landon Bigge-\$10.45, Sage Bohn-\$11.95, Parker Bollinger-\$11.95, Gavyn Degen-\$11.95, Porter Geppert-\$25.00, Porter Geppert-\$10.45, Gavin Hinker-\$10.45, Brody Huls-\$10.45, Noah Larson-\$10.45, Grant London-\$11.95, Ernest Luna-\$11.45, Charles McCardle-\$10.95, Kelsey Morgan-\$10.45, Greyce Northrup-\$10.45, Reed Renken-\$11.95, Jaylyn Sheesley-\$9.95, Reese Sievert-\$12.45, Brenden Wantoch-\$10.45

FINANCE: Jerilyn Mickelson-\$19.155

PARKS: Ashlynn Pollreisz-\$7.60

RECREATION & AQUATICS: Lincoln Bates-\$9.95, Lukas Bennett-\$9.95, Elizabyth Clement-\$9.95, Kelsey Dahme-\$11.95, Elise Foster-\$10.45, Sydnee Foster-\$11.45, April Geist-\$15.00, Mason Geraets-\$10.45, Corbin Kramer-\$12.45, Adaya Plastow-\$11.95, Julia Platt-\$10.45, Connor Singrey-\$9.95

RECREATION CENTER: Bailey Henkel-\$11.45, Brenna Morgan-\$12.95, Kennedy Olson-\$10.95, Broden Schulz-\$10.45, Emerson Smith-\$10.45

SALARY ADJUSTMENTS:

E-911: Kathleen Brink-\$27.543

FIRE: Luke Ruml-\$22.574

POLICE: Bradley Buysse-\$35.539

PUBLIC WORKS: Debra Hanson-Sudbeck-\$26.115

TERMINATIONS:

CORN PALACE: Parker Bollinger, Halle Mickelson

WARRANTS: A-Ox Welding Supply, Supplies-\$298.45; AAA Collections, Refund-\$115.05; Abilene Machine, Supplies-\$4,617.95; AFSCME Council 65, Union Dues-\$511.51; Alignment

X-Perts, Repair-\$25.00; Amazon Capital Services, Supplies-\$288.69; American Garage Door, Maintenance-\$733.65; Aqua-Pure, Supplies-\$1,612.50; Aramark Uniform Services, Service-\$302.17; Arctic Refrigeration, Repairs-\$68.11; AT&T Mobility, Utilities-\$800.17; ATV Holdings, LLC dba Mitchell Telecom, Utilities-\$2,738.21; Automatic Building Control, Alarm Contract-\$2,208.17; Avera Occupational Medicine, Contract Services-\$732.00; B-Y Water District, Utilities-\$67,247.29; Bailey Metal Fabricators, Repair-\$780.16; Barr Engineering, 2021-20 P.E.#Ph2-1-\$1,144.50; Beacon Athletics, Supplies-\$1,165.00; Big Daddy D's, Contract Services-\$4,152.50; Blackstone Publishing, Audio Books-\$137.58; Boyer Ford Trucks, Supplies-\$1,967.29; Brosz Engineering, 2021-7 P.E.#1-\$3,570.00; Buhl's Drycleaning, Laundry Service-\$32.00; Builders Electric, 2022-33 P.E.#1-\$23,443.02; Builders First Source, Supplies-\$346.76; Butler Machinery, Supplies-\$584.18; C&B Operations, Supplies-\$1,364.10; CDW Government, Supplies-\$181.82; Central Electric, Utilities-\$10,846.00; Century Link, Utilities-\$57.43; City of Mitchell, Utilities-\$17,442.88; Civicplus, Annual Fee-\$4,578.00; CJG Properties, Improvements-\$10,000.00; Coborn's, Contract Services-\$530.25; Coca Cola Bottling, Supplies-\$750.72; Core & Main, Repairs-\$65,588.93; Core-Mark Midcontinent, Supplies-\$12,300.35; Corporate Translation Services, Professional Services-\$13.40; County Fair, Contract Services-\$708.75; Culligan Water, Rental-\$50.00; Dakota Fluid Power, Supplies-\$157.22; Dakota Pump, Supplies-\$1,147.96; Dakota Supply Group, Supplies-\$82.84; Dakota Wesleyan Track, Revenue-\$1,550.00; Dale Star, Reimbursement-\$250.00; Dale Steffen, Testing-\$180.00; Daniel Fossoy, Refund-\$82.92; Darrington Water Conditioning, Rental-\$105.15; Davison Rural Water Systems, Utilities-\$154.50; Dean Knippling, Reimbursement-\$201.37; Demco, Supplies-\$88.32; Department of Agriculture, Environmental Fees-\$5,916.18; Department of Social Services, Child Support-\$1,104.41; Diesel Machinery, Supplies-\$1,585.77; Dillon Coughlin, Fire School-\$54.00; Dimock Dairy, Supplies-\$647.75; Dug Out, Contract Services-\$742.00; Emergency Education, Training-\$100.00; Engineered Lining Systems, Supplies-\$112,812.00; Farmers Alliance, Fuel-\$4,319.27; Fastenal, Supplies-\$339.40; Fedex, Shipping-\$57.27; Fischer, Albert, Refund-\$50.00; Flexible Pipe Tool, Supplies-\$977.60; Forum Communications, Advertising-\$1,967.81; Galls, Supplies-\$97.97; Gaylen's Homegrown Popcorn, Supplies-\$1,935.60; Graceland Cemetery, Supplies-\$1,800.00; Graham Tire, Repair-\$180.80; Grainger, Supplies-\$210.92; Guardian Alliance Technology, Background Check-\$100.00; Harve's Pro Prints, Supplies-\$68.00; Hawkins, Supplies-\$16,128.84; HDR Engineering, 2021-31 P.E.#15-\$29,836.04; Helms and Associates, 2021-9 P.E.#14-\$4,620.00; Henry Schein, Supplies-\$2,356.62; Hohn's Services, Mowing-\$925.00; Holiday Inn Express, Lodging-\$294.00; Howes Oil, Supplies-\$27,522.77; HR Green, 2022-8 P.E.#1-\$2,420.00; ICAN, Advertising-\$750.00; Ingram Library Services, Books-\$55.88; Innovative Office Solution, Supplies-\$242.79; Interstate Glass & Door, Maintenance-\$66.33; Interstate Office Products, Supplies-\$4.18; IPMA-HR, Membership-\$156.00; Isaiah Glanzer, CDL Testing-\$50.00; J J Keller & Associates, Training-\$204.04; James Valley Nursery, Supplies-\$2,079.09; Jason Dicus, Reimbursement-\$177.00; JCL Solutions, Supplies-\$96.00; JD Concrete Products, Supplies-\$342.50; Johnson Controls, Service Agreement-\$4,405.13; Jones Supplies, Supplies-\$1,416.90; Justin Young Construction, Repairs-\$2,475.15; Kansas Highway Patrol Car, 2020 Dodge Durango Patrol Car-\$29,350.00; KIKN-FM, Advertising-\$1,824.00; Kimball-Midwest, Supplies-\$181.08; Krohmer Plumbing, Repair-\$1,778.83; Lakeview Veterinary Clinic, Service Dog-1,099.94; Larry's I-90 Service, Maintenance-\$50.00; Laurrie Bentson, Refund-\$82.92; Lawson Products, Supplies-\$56.97; Liz Kitchens, Training-\$99.68; LTS Distributing, Supplies-\$595.00; Lynn Peavey, Supplies-\$180.52; M&M Greenhouse,

Supplies-\$96.85; M&T Fire and Safety, Supplies-\$392.58; Make It Mine Designs, Capital Improvements-\$347.64; Malloy Electric Bearing, Supplies-\$6,482.69; Mark Anderson, Refund-\$82.82; Mason Bruns, Training-\$54.00; Matt & Michaela Doerr, 2021-14 P.E.#1-\$3,531.94; Mega Wash, Car Wash-\$6.00; Menard's, Supplies-\$1,954.67; Mettler Implement, Repairs-\$3,809.27; Meyers Oil, Supplies-\$8,051.04; Michael Todd & Company, Supplies-\$1,940.65; Michaels Fence & Supply, Supplies-\$185.53; Microsoft, Supplies-\$910.00; Mid-America Golf & Landscaping, 2021-54 P.E.#3-\$13,703.75; Midamerica Books, Books-\$166.60; Midcontinent Communication, Utilities-\$135.39; Midcontinent Communication, Advertising-\$225.00; Midway Service/Vollan Oil, Fuel-\$33,525.00; Midwest Laboratories, Lake Testing-\$483.89; Minnesota Valley Testing, Lab Fees-\$126.00; Miscellaneous Vendor, Shultz, Ramon & Kyli Refund-\$83.14; Mitchell Animal Rescue, June Payment-\$350.00; Mitchell Concrete Product, Supplies-\$4.50; Mitchell Convention & Visitors Bureau, 2022 Funding June-\$20,800.00; Mitchell Iron & Supply, Supplies-\$326.04; Mitchell Park & Recreation, Track Revenue-\$601.30; Mitchell Plumbing & Heating, Supplies-\$179.58; Mitchell Power Equipment, Supplies-\$18.50; Mitchell School District, Utilities-\$1,661.93; Mitchell United Way, United Way Deductions-\$199.66; Mueller Lumber, Supplies-\$3.49; Muth Electric, Maintenance-\$1,305.75; N-Able Solutions, Backup & Recovery-\$240.11; Napa Central, Supplies-\$562.73; North Central Seed, Supplies-\$495.00; Northwest Pipe Fittings, Maintenance-\$1,005.61; Northwestern Energy & Communications, Utilities-\$57,548.61; O'Reilly Automotive, Supplies-\$1,290.00; OCLC, Cataloging Subscription-\$361.75; One Source The Background, Background Checks-\$851.80; Pepsi Cola, Supplies-\$7,703.43; Pfeifer Implement, Supplies-\$370.03; Pioneer Manufacturing Comp, Supplies-\$2,454.90; Planning & Development, Contract Services-\$4,750.00; Powerphone Service Contract-\$5,077.00; Premier Pest Control, Supplies-\$400.00; Public Health Laboratory, Lab-\$225.00; Qualified Presort, Mailing Service-\$251.57; Roger Prewett II, Reimbursement-\$139.95; Ron And Shelly Riggs, Refund-\$700.00; Runnings Supply, Supplies-\$2,009.24; S & S Willers, Supplies-\$1,107.69; Saga Communications of South Dakota, Publishing-\$636.00; Sanitation Products, Supplies-\$426.21; Santel Communications, Utilities-\$106.16; Savvik, Supplies-\$2,379.49; Schoenfelder Portables, Rental-\$375.00; Scholastic Inc Education, Book-\$1.20; Scott Supply, Repair-\$1,105.77; South Dakota Department of Environment & Natural Resources, May Solid Waste-\$3,178.92; South Dakota Municipal League, Budget Training-\$30.00; South Dakota Newspaper Services, Advertising-\$810.58; South Dakota Retirement System, Retirement Contributions-\$53,050.44; South Dakota Supplemental Retirement, Supplemental Retirement-\$3,439.80; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,353.50; Secretary of State, Notary-\$30.00; Sherwin-Williams, Supplies-\$135.68; Sl-Serco, Report-\$5,200.00; Spencer Quarries, Supplies-\$8,931.36; Stan Houston Equipment, Supplies-\$75.50; Staples, Supplies-\$440.56; Sturdevants, Supplies-\$1,619.30; Sun Gold Sports, Supplies-\$1,575.00; Tessier's, Capital Buildings-\$6,957.34; The Office Advantage, Supplies-\$25.00; Thomson Reuters West, Subscription-\$777.48; Thune True Value Hardware, Supplies-\$433.58; Tim's Towing & Recovery, Impound-\$170.00; Titze Electric & Remodeling, Capital Equipment-\$8,265.89; TK Electric, Maintenance-\$214.29; TMA Stores, Repair-\$436.23; Transource, Supplies-\$1,663.86; Trittech Software Systems, Training-\$26,743.94; Trizetto Provider Solution, Professional Service-\$74.40; UPS Store #4227, Shipping-\$484.22; US Bank, Lake Property-\$660.00; USA Blue Book, Supplies-\$1,896.17; Verizon Wireless, Utilities-\$777.37; Vern Eide Ford Lincoln, Supplies-\$258.50; Walmart, Supplies-\$176.67; Wheelco

Brake & Supply, Supplies-\$1,474.06; Wholesale Electronics, Supplies-\$132.88; Williams Musical and Office Supplies, Supplies-\$50.00; Zimco Supply, Supplies-\$531.95.

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

EXECUTIVE SESSION:

Moved by Rice, seconded by Allen, to go into Executive Session as permitted by SDCL 1-25-2(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. Motion carried.

Mayor Everson declared the board out of executive session at 6:54 p.m. and the City Council to reconvene in regular session at 6:55 p.m.

CITIZENS INPUT:

Mitchell Township resident Sonja Vanerdewyk informed City Council about Covid shots for young children and the potential effects.

Council Member Sabers stated the Heart & Sole Cancer Walk at Hitchcock Park was very nice and the organizers did a great job.

Council Member McCardle asked Parks & Recreation Director Kevin Nelson about mosquito spraying. Parks & Recreation Director Nelson stated the plan is to spray for mosquitoes before the 4th of July holiday and regularly after that.

BOARD OF ADJUSTMENT:

Moved by Allen, 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 Jason Bates for a variance for maximum lot coverage of 50% vs 45% to construct a detached garage located at 1112 North Rowley, legally described as Lot 16, Block 4, DA Scott's Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. The Planning Commission recommended approval of said application. Moved by Rice, seconded by Sabers, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of DAK Properties LLC for a side yard corner variance of 12' vs 20' to construct an unattached 24' x 24' garage on a 43' wide lot located at 1001 East 4th Avenue, legally described as the W 7 ½' of Lot 9 and all of Lot 10, Block 9, Gleeson's Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. The Planning Commission

recommended approval of said application. Moved by Allen, seconded by Rice, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Thiesse Chiropractic for a conditional use permit for a parking facility located at 317 West 13th Avenue, legally described as Lot 5, Block 27, Capital Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R4 High Density Residential District. The Planning Commission recommended approval of said application. Moved by Sabers, seconded by McCardle, to approve said application. Motion carried.

It was advised that this is the date and time set for hearing on the application of Maxwell Rysdon of Watchfire Signs on behalf of Krall Eye Clinic for a conditional use permit to install and operate an electric message center in a residential district located at 1415 North Sanborn Boulevard, legally described as Lots 1-6 and E ½ of Vacated Edmunds Street, Block 12, Capital Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District and R4 High Density Residential District. The Planning Commission recommended approval of said application with the condition the sign be placed on the west ½ of the current sign location. Moved by McCardle, seconded by Smith, to approve said application with Planning Commission recommendations. 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.

HEARINGS:

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 Liquor License located at the Horseman’s Sports Arena for July 14, 15, 16, & 17, 2022 for the Corn Palace Stampede Rodeo. Notice of hearing has been given and affidavit of publication is on file. Moved by McCardle, seconded by Rice, 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 of Mitchell for a Special Event Liquor License located at Cadwell Park for August 3rd through August 14th, 2022 for the State Amateur Baseball Tournament. Notice of hearing has been given and affidavit of publication is on file. Moved by McCardle, seconded by Rice, to approve said application. Motion carried.

CONSIDER APPROVAL:

Moved by Rice, seconded by Sabers, to approve the letter of intent to explore a secondary water source with Randall Community Water District. Motion carried.

The City Council is considering pending offers on city owned real estate-Kelley Property. No action was taken.

Moved by Allen, seconded by McCardle, to approve Agreement #A2022-17, Developers Agreement for Airport Addition Development with Groeneweg Construction. Motion carried.

Moved by Smith, seconded by Allen, to approve Agreement #A2022-27, City of Mitchell Water and Waste Water Fee Analysis with HDR in an amount not to exceed \$97,620.00. Motion carried.

Moved by Rice, seconded by Sabers, to approve Agreement #A2022-28, Corn Palace Gift Shop Contract for a term commencing May 1, 2023 and expiring on August 31, 2023. Motion carried.

RESOLUTIONS:

Moved by Allen, seconded by McCardle, to approve Resolution #R2022-32, Plat of Lots A1, A2, and A3, a Subdivision of Lot A of Mommer's Addition in the NE ¼ of Section 14, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2022-32

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 13th day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOTS A1, A2, AND A3, A SUBDIVISION OF LOT A OF MOMMER'S SUBDIVISION IN THE NE ¼ OF SECTION 14, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOTS A1, A2, AND A3, A SUBDIVISION OF LOT A OF MOMMER'S SUBDIVISION IN THE NE ¼ OF SECTION 14, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Rice, to approve Resolution #R2022-33, Plat of Lot O-2 of Titze's Addition in the S ½ of the SW ¼ of Section 24, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2022-33

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 13th day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOT O-2 OF TITZE'S ADDITION IN THE SOUTH HALF OF THE SOUTHWEST QUARTER (S ½ SW ¼) OF SECTION 24, T 103 N, R 61 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Robert D. Kummer, 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 of LOT O-2 OF TITZE'S ADDITION IN THE SOUTH HALF OF THE SOUTHWEST QUARTER (S ½ SW ¼) OF SECTION 24, T 103 N, R 61 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Robert D. Kummer, 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 Allen, seconded by Rice, to approve Resolution #R2022-36, Plat of Lot 2, Block 5, Woodland Heights First Addition, a Subdivision of Lot 2, and Tracts 2 and 3, Block 1, all in Crane's Addition, as follows:

RESOLUTION #R2022-36

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 13th day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOT 2, BLOCK 5 OF WOODLAND HEIGHTS FIRST ADDITION, A SUBDIVISION OF LOT 2, AND TRACTS 2 AND 3, BLOCK 1, ALL IN CRANE'S ADDITION IN THE SE ¼ OF SECTION 34, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOT 2, BLOCK 5 OF WOODLAND HEIGHTS FIRST ADDITION, A SUBDIVISION OF LOT 2, AND TRACTS 2 AND 3, BLOCK 1, ALL IN CRANE'S ADDITION IN THE SE ¼ OF SECTION 34, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON

COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, 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 McCardle, seconded by Sabers, to approve Resolution #R2022-37, Plat of Lots 1-4, Block 1; Lots 1-12, Block 2; Lots 1-22, Block 3; Lots 1-30, Block 4; Lots 1-46, Block 5; Lots 1-5, Block 6; Apache, Cheyenne, Sioux, and Dakota Avenues; all of South Lake Estates Subdivision, as follows:

RESOLUTION #R2022-37

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 13th day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOTS 1-4, BLOCK 1; LOTS 1-12, BLOCK 2; LOTS 1-22, BLOCK 3; LOTS 1-30, BLOCK 4; LOTS 1-46, BLOCK 5; LOTS 1-5, BLOCK 6; APACHE, CHEYENNE, SIOUX AND DAKOTA AVENUES; ALL OF SOUTH LAKE ESTATES SUBDIVISION TO THE CITY OF MITCHELL, IN THE SW ¼ OF SECTION 4, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOTS 1-4, BLOCK 1; LOTS 1-12, BLOCK 2; LOTS 1-22, BLOCK 3; LOTS 1-30, BLOCK 4; LOTS 1-46, BLOCK 5; LOTS 1-5, BLOCK 6; APACHE, CHEYENNE, SIOUX AND DAKOTA AVENUES; ALL OF SOUTH LAKE ESTATES SUBDIVISION TO THE CITY OF MITCHELL, IN THE SW ¼ OF SECTION 4, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

ORDINANCES:

Moved by Rice, seconded by Smith, to place amended Ordinance #O2022-08, Amending Mitchell City Code Section 6-1-1 Regarding Animals at Large on first reading. Motion carried.

Moved by Rice, seconded by Allen, to place Ordinance #O2022-09, Amending Mitchell City Code Chapter 6-1A Regarding Vicious Animals on second reading. Motion carried. Moved by Rice, seconded by Sabers, to adopt Ordinance #O2022-09, Amending Mitchell City Code Chapter 6-1A Regarding Vicious Animals, as follows:

ORDINANCE #O2022-09

**AN ORDINANCE AMENDING CHAPTER 6-1A OF THE MITCHELL CITY CODE
IN RELATION TO VICIOUS ANIMALS**

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

Section 1.

That Mitchell City Code Article 6-1A is hereby RE-TITLED AND AMENDED to read as follows:

“ARTICLE A. RESTRICTED AND VICIOUS ANIMALS

6-1A-1: DEFINITIONS: Whenever used in this article, the following terms shall be defined as follows:

ANIMAL CONTROL OFFICER: the officer regularly assigned to the animal control position. This term also refers to any other officer designated by the chief of police to perform the duties of the animal control position either temporarily or during times the regular animal control officer is off duty.

DUNBAR SCALE: A scale used for determining the severity of animal caused injury with escalating levels defined as:

- A. Level 1. Obnoxious or aggressive behavior but no skin contact by teeth.
- B. Level 2. Skin contact by teeth but no skin puncture. However, may be skin nicks (less than one tenth of an inch deep) and slight bleeding caused by forward or lateral movement of teeth against skin, but no vertical punctures.
- C. Level 3. One to four punctures from a single bite, which may have lacerations in a single direction, caused by victim pulling hand away, owner pulling animal away, or gravity (little animal jumps, bites, and drops to floor).
- D. Level 4. One to four punctures from a single bite with at least one puncture deeper than half the length of the animal's canine teeth. May also have deep bruising around the wound (animal held and bore down) or lacerations in both directions (animal held and shook its head from side to side).
- E. Level 5. At least two Level 4 bites either in the same bite incident or over multiple attack incidents.
- F. Level 6. Victim dead.

MENACES: approaches a human being or other domestic animal in apparent attitude of attack.

OWNER: Any person possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

PERIOD OF OWNER'S RIGHT TO APPEAL: The time period beginning on the date when an owner, keeper, harbinger, or handler of an animal is given written notice that an animal has been classified as "restricted" or "vicious". Such time period shall conclude on the later of:

- A. The 6th day after the owner, keeper, harbinger, or handler was provided the written notice; or
- B. The day upon which a final determination is made by the chief of police, or their designee, as to the animal's classification.

PERSON: Any individual, partnership, firm, corporation or employee thereof, or other legal entity, unless otherwise stated.

RESTRICTED ANIMAL: Any animal which, when unprovoked, in a vicious or terrorizing manner menaces, or bites, or inflicts injury, or assaults, or otherwise attacks a human being or other domestic animal under circumstances which do not rise to the level of being declared a vicious animal.

UNPROVOKED: That the animal was not teased, tormented, abused, or assaulted, nor threatened or intimidated under circumstances where the animal was not allowed free opportunity to escape.

VICIOUS ANIMAL: Any animal which, in a vicious or terrorizing manner bites, or inflicts injury, or assaults, or otherwise attacks a human being or other domestic animal and the resulting harm is equivalent to a Level 4 or higher injury on the Dunbar Scale. May also be any animal which has previously been declared a Restricted Animal and is involved in a second or subsequent incident for which the animal could be declared a Restricted Animal.

6-1A-2: DETERMINATIONS OF RESTRICTED ANIMALS AND VICIOUS ANIMALS

A. Restricted Animal and Vicious Animal Declaration Procedures:

1. The animal control officer shall have the authority to investigate and declare whether an animal is a Restricted Animal or Vicious Animal.

2. The animal control officer shall have the authority to impound, at the owner's expense, an animal under investigation of being a Restricted Animal or Vicious Animal. The animal may be held while the investigation is pending or as further provided by this article.
3. If after reasonable investigation the animal control officer determines that the animal is a Vicious Animal, the animal control officer shall order the owner to either remove the vicious animal from the jurisdictional limits of the city, or in the alternative, deliver the vicious animal to the city impoundment facility for humane euthanization.
4. If after reasonable investigation the animal control officer determines that the animal is a Restricted Animal, the animal control officer shall order the owner to comply with any applicable conditions of this article relating to the keeping of a Restricted Animal and such further conditions as the animal control officer determines to be appropriate to protect the public.
5. An owner may request the animal control officer reconsider the declaration of their animal as a Restricted Animal or Vicious Animal. The animal control officer may consider any additional evidence provided by the owner or may seek the opinion of a veterinarian regarding the classification of the animal. After such further investigation as the animal control officer may deem appropriate, the animal control officer shall confirm, amend, or rescind their declaration.
6. If an animal impounded during an investigation is determined to not be a Restricted Animal or Vicious Animal, the animal shall be released back to the owner upon the conclusion of the investigation and payment by owner of any fees or charges relating to the impoundment.

B. Appeals to the Chief of Police:

The owner of an animal declared to be a Restricted Animal or Vicious Animal may appeal the determination of the animal control officer to the chief of police. However, the owner may not defer compliance with the order of the animal control officer. If the animal is ordered to be humanely euthanized, such 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.

The owner, keeper, harborer, or handler of an animal shall have the ability to appeal the animal control officer's declaration that an animal is a Restricted Animal or Vicious Animal in the following manner:

1. Notice shall be deemed given either when a written notice has been served upon any owner, keeper, harborer, or handler, when a written notice properly stamped and addressed to the registered owner of an animal is deposited into the mail, or when written notice is left in a reasonable location upon the property on which the animal was located. Such written

notice may be given by the animal control officer, other police officer, or other person of governmental authority, in the form of a citation for failure to comply with relevant city ordinances or by other written document stating that an animal has been classified as a Restricted Animal or Vicious Animal.

2. Once written notice that an animal has been declared a Restricted Animal or Vicious Animal, the owner, keeper, harbinger, or handler of such an animal shall have five (5) calendar days to deliver written intent to appeal such classification to the chief of police. Such notice must contain all of the following:
 - a. A clear statement identifying the document as intent to appeal a classification of an animal as a Restricted Animal or Vicious Animal;
 - b. Identifying by name and address, the owner, keeper, harbinger, or handler who is making the appeal;
 - c. Reasonably identifying the animal in question;
 - d. Identifying the citation, with ticket number, or other written document in which a classification as a Restricted Animal or Vicious Animal was made; and
 - 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 the animal is a Restricted Animal or Vicious Animal.

If no written intent to appeal the classification is delivered within five (5) days, such a right to appeal the classification of the animal as a Restricted Animal or Vicious Animal shall be deemed waived and such classification shall be deemed conclusive and final for all purposes.

3. Upon receiving written notice of intent to appeal a classification of a Restricted Animal or Vicious Animal, the chief of police shall promptly, upon investigation and/or a hearing (if requested and, in the discretion deemed beneficial to the interest 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 who filed the appeal.
4. A finding by chief of police that an animal is not a Restricted Animal or Vicious Animal shall not prevent the same animal from later being declared a Restricted Animal or Vicious Animal due to a subsequent incident.

6-1A-3: ADDITIONAL PROVISIONS RELATING TO RESTRICTED ANIMALS:

The owner of an animal declared to be a Restricted Animal shall comply with the following requirements as a condition of maintaining such animal within the jurisdictional limits of the city:

A. Registration: The owner of Restricted Animal must register such animal with the police department and microchip identify such animal at owner's expense. The application for such registration shall contain:

1. The name and address of the owner;
2. The breed, age, sex, color and any other identifying marks of the animal;
3. The location where the animal is to be kept if not at the address of the owner; and
4. 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 Restricted Animal registered pursuant to this article shall be assigned an official registration number by the police department. Such registration number shall be inscribed on a metal tab which shall be attached to the collar of the Restricted 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 animal control officer in respect to said Restricted Animal.

B. Confinement: The chief of police or animal control officer may order the owner of a Restricted Animal to display one or more department provided signs in a place visible from the sidewalk or road adjacent to the property denoting a Restricted Animal is kept on the property.

In addition, the chief of police or animal control officer may order the Restricted Animal be controlled or contained as follows:

1. If the animal is indoors, that the animal be under the control of a person over eighteen (18) years old;
2. If the animal is outdoors and attended, that the animal be muzzled on a leash no longer than six (6') feet and under the control of a person over eighteen (18) years of age; or
3. If the animal is outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the animal control officer. Minimum standards for the kennel shall include the following:

- a. Fencing materials shall not have openings with a diameter of more than two (2") inches. In the case of a wooden fence, the gaps shall not be more than two (2") inches.
- b. Any gates within the pen or structure shall be lockable and of a design to prevent the entry of children or the escape of the animal;
- c. Secure sides and top. If the kennel has no bottom secured to the sides, the sides shall be imbedded into the ground or concrete;
- d. The kennel shall protect the animal from the elements; and

- e. The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.
- C. Confiscation and Impoundment: If the owner of a Restricted Animal violates any ordinance or order which relates to the animal, the Restricted Animal may be confiscated, impounded, and/or humanely euthanized. Alternatively, the chief of police or animal control officer may issue a further order imposing additional restrictions for maintaining the Restricted Animal.
- D. Insurance: The owner of a Restricted Animal shall carry animal liability insurance in an amount no less than \$100,000 per incident which covers the medical and/or veterinary costs resulting from future actions which would lead to an animal being declared a Restricted Animal or Vicious Animal. Proof of insurance shall be filed with animal control at the time the Restricted Animal is registered.

6-1A-4: PROHIBITED ACTS:

- A. No person shall own or harbor any animal for the purpose of fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to attack or menace human beings or domestic animals when not provoked.
- B. No person shall sell, offer for sale, breed, buy, or attempt to buy any Vicious Animal within the city.
- C. Any Vicious Animal found within the city is declared to be a public nuisance. The Vicious Animal shall be impounded and the animal control officer shall either order the owner to remove the Vicious Animal from the jurisdictional limits of the city, or in the alternative, order the Vicious Animal to be humanely euthanized.

6-1A-5: EXCEPTIONS:

No animal shall be declared a Restricted Animal or Vicious Animal under any of the following circumstances:

- A. If at the time of the incident a person was committing a crime or other tort upon the premises occupied by the owner of the dog. This exception does not apply where the animal menaces, or bites, or inflicts injury, or assaults, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property;
- B. If at the time of the incident a person or other domestic animal was teasing, tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have teased, tormented, abused, or assaulted the dog;

- C. If at the time of the incident the animal was being threatened or intimidated under circumstances where the animal was not allowed free opportunity to escape;
- D. If at the time of the incident the animal was working for hunting, herding, or animal control purposes on the property of or under the control of its owner, and the injury was to a species or type of animal appropriate to the work;
- E. If at the time of the incident the animal was protecting or defending a person within the immediate vicinity of the animal from an attack or assault;
- F. If the animal was serving as a military, correctional, or police animal at the time of the incident and the animal was behaving as trained;
- F. If at the time of the incident the animal was reacting to pain or injury.
- G. If at the time of the incident the animal was protecting itself or its offspring.

6-1A-6: ENFORCEMENT AND PENALTIES:

- A. Enforcement: Authorized officers and employees of the police department, and any other persons designated by the chief of police, shall be empowered to enforce the provisions of this article.
- B. Humane Euthanization: For any animal ordered to be humanely euthanized pursuant to this article, such procedure shall only be carried out by a veterinarian.
- C. Penalties:
 - 1. Any person who violates any provision of this article shall be guilty of a misdemeanor punished as provided in the general penalty in section 1-4-1 of this code.
 - 2. In addition to the penalties prescribed by this subsection, any person who violates any order of the chief of police or animal control officer in respect to the disposition of any animal determined to be a Vicious Animal shall be liable for a civil penalty of not more than five thousand dollars (\$5,000.00).
- D. Pre-existing Declarations: If an animal was previously declared to be a potentially dangerous animal pursuant to prior ordinance, then such animal shall be deemed to be a Restricted Animal. If an animal was previously declared to be a dangerous animal pursuant to prior ordinance, then such animal shall be deemed to be a Vicious Animal.

6-1A-7: MISCELLANEOUS PROVISIONS:

- A. Whenever an animal is impounded and/or humanely euthanized pursuant to this article, the owner of the animal shall be solely responsible for all the costs relating to such impoundment and/or humane euthanasia.
- B. The provisions of this article are to be considered cumulative and in addition to all other enforcement mechanisms available to the City and no action taken pursuant to this article shall preclude the city from enforcing any other ordinances pertaining to animals or nuisances.

- C. An animal that has been previously declared to be the equivalent of a Restricted Animal or Vicious Animal by another jurisdiction shall be deemed a Restricted Animal or Vicious Animal if the circumstances leading to the declaration in the other jurisdiction would have been sufficient for such a declaration had the events occurred within the city of Mitchell. An owner of an animal declared to be the equivalent of a Restricted Animal or Dangerous Animal in another jurisdiction shall inform the police department of the owner's intention to bring such an animal into the city of Mitchell. The owner shall provide sufficient facts relating to the declaration from another jurisdiction so that the police department can investigate the matter and reach a determination on how the animal would be classified in Mitchell. Upon reaching a determination that the animal's out of jurisdiction incident would result in the animal being a Restricted Animal or Vicious Animal within the city of Mitchell, the provisions relating to such classifications shall apply as if the out of jurisdiction incident had occurred within the city of Mitchell.

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. Members present voting nay: none. Motion carried and ordinance declared duly adopted.

Moved by Smith, seconded by Allen, to place Ordinance #O2022-11, Revising Provisions of Chapter 4-2: Liquor Control on first reading. Motion carried.

INPUT:

The City Council heard input from Mitchell Township resident, Sonja Vanerdewyk, regarding 5G Technology.

EXECUTIVE SESSION:

Moved by Rice, seconded by McCardle, to go into Executive Session as permitted by SDCL 1-25-2(4) Employee Negotiations. Motion carried.

Mayor Everson declared the board out of executive session at 8:33 p.m. and the City Council to reconvene in regular session at 8:34 p.m.

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 _____.