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

ABSENT: Mel Olson, Susan Tjarks

PRESIDING: Mayor Jerry Toomey

PRESENTATION:
The South Dakota Municipal League Work Comp Fund celebrated their 30 Year Anniversary by presenting plaques to their 30-year members. Insurance Benefits President Brad Wilson presented a plaque to the City of Mitchell from the SDML Work Comp Fund for being a 30 year member.

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

a. City Council Minutes
   1. Council Minutes August 21, 2017, and

b. Committee Minutes
   1. Planning Commission August 14, 2017,
   2. Traffic August 21, 2017, and
   3. TIF May 02, 2017.

c. Raffle Permits
   1. Mitchell Ducks Unlimited with the drawing to be held on October 5, 2017, and
   2. Mitchell Area Safehouse Foundation with the drawing to be held on March 23, 2018.

d. Change Order #1 City Project #2017-21 for Manhole Rehabilitation contracted to Key Contracting Inc. increasing the contract amount by $901.90 to reflect built in quantities for the project, adjust contract amount to $198,401.90.

e. Set date for bid opening at 1:30 p.m., September 26, 2017 at City Hall for Airport Farm Ground Lease Project #2018-5 and Airport Pasture Lease Project #2018-6.

f. Declare Items as Surplus Property.

g. Set date of 09-18-17 for hearing on the application of Overtime Steakhouse & Sports Bar for a Special Event Liquor License located at the Overtime Event Center for September 30, 2017 for a wedding.

h. Gas and Diesel Fuel Competitive Quotation:
<table>
<thead>
<tr>
<th>Howes Oil Company Inc.</th>
<th>Requested Gallons</th>
<th>Bid Gallons</th>
<th>Price per Gallons</th>
<th>Total Bid Per Product</th>
</tr>
</thead>
<tbody>
<tr>
<td>On Road Diesel #2</td>
<td>1,600</td>
<td>1,600</td>
<td>$2.195</td>
<td>$3,512.00*</td>
</tr>
<tr>
<td>Unleaded Gas-10% Ethanol</td>
<td>5,900</td>
<td>5,900</td>
<td>$2.139</td>
<td>$12,620.10*</td>
</tr>
<tr>
<td>Total Bid:</td>
<td></td>
<td></td>
<td></td>
<td>$16,132.10*</td>
</tr>
</tbody>
</table>

Howes Oil was the only bidder for the items marked with an asterisk.

i. Pay Estimates September 5, 2017
Pay Estimate #17 in the amount of $12,630.59 for Mitchell Aquatics Center #2016-11 contracted to MSH Architects,

Pay Estimate #4 in the amount of $63,730.44 for Corn Palace Plaza #2016-18 contracted to Rexwinkel Concrete,

Pay Estimate #2 in the amount of $15,000.00 for Veteran’s Park - Schedule “7” #2016-43 contracted to J&D Masonry Inc.,

Pay Estimate #2 in the amount of $2,567.00 for Veteran’s Park - Schedule “12” #2016-43 contracted to Krohmer Plumbing,

Pay Estimate #5 in the amount of $4,256.72 for Sidewalk-Miscellaneous #2017-4D contracted to Top Grade Concrete,

Pay Estimate #1-Final in the amount of $23,389.00 for Sanitation Pickup #2017-17 contracted to Wegner Auto Co. Inc.,

Pay Estimate #1-Final in the amount of $198,401.90 for Manhole Rehabilitation #2017-21 contracted to Key Contracting Inc., and

Pay Estimate #1 in the amount of $48,000.00 for Recreation Center Reroof #2017-35 contracted to Great Plains Roofing.

j. 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 JULY 30, 2017 – AUGUST 12, 2017: City Council $2,935.68, Mayor $1,221.38, City Administrator $4,649.67, Attorney $3,739.25, Finance $12,363.62, Human Resources $3,267.64, Municipal Building $3,056.80, Information Technology $2,312.00, Police $62,513.54, Traffic $4,780.17, Fire $45,297.92, Street $31,541.07, Public Works $20,779.58, Cemetery $4,688.59, Animal Control $1,537.60, Emergency Medical Services $10,945.27, Library $12,597.93, Recreation & Aquatics $22,211.98, Recreation Center $8,278.06, Sports Complexes $18,675.46, Parks $17,268.10, Supervision $4,839.66, E911 $20,307.58, RSVP $6,960.79, Palace Transit $17,276.49, JVCC $1,337.50, Nutrition $1,143.40, Water $6,028.74, Water Distribution $8,724.42, Sewer $14,829.03, Airport $2,172.00, Waste Collection $12,755.70, Landfill $8,681.10, Corn Palace $26,744.86, Golf Course $8,549.49, Campground $1,705.20.

09-05-17
NEW HIRES:

LIBRARY: Melody Melchior-$9.85, Jean Patrick-$22.56.

CORN PALACE: Kevin L. Swenson-$10.15, Austin Kleinsasser-$10.15, Jason Aalbers-$10.15.

FIRE: Kathy Brink-$15.00, Erika Helleloid-$15.00, Maria Koenen-$15.00.

CEMETERY: Dave Thuringer-$9.65.

SALARY ADJUSTMENTS:


STREET: Pamela Punt-$19.47, Randall Hanten-$22.86, David Muck-$22.86,

LANDFILL: Clayton Moore-$22.58.

ENGINEERING: Deb Hanson-Sudbeck-$19.47.


CEMETERY: Aaron Willis-$23.41.

WARRANTS: A & B Business Solutions, Contract-$4,070.84; A-OX Welding Supply, Rental-$126.47; AAA Collections, Contract Services-$20.00; ABC-Clio, Supplies-$60.22; Aberdeen Parks Recreation, Registration-$600.00; Adam Fosness, Contract Services-$500.00; Advance Auto Parts, Supplies-$23.58; AFSCME Council 65, Union Dues-$565.71; AIA, Supplies-$127.79; American Garage Door, Service Call-$34.00; Ameripride Services, Supplies-$166.38; Andrew Becker, Reimbursement-$100.00; Aramark South Dakota State University, Lunches-$261.05; Ashton Luke, Supplies-$96.94; Avera Occupational Medicine, Contract Service-$523.66; Axon Enterprise, Supplies-$1,103.31; Bailey Metal Fabricators, Contract Services-$1,063.92; Beacon Athletics, Supplies-$672.00; Becker Arena Products, Supplies-$2,925.79; Bender's Sewer Cleaning, Contract Services-$135.00; Big Daddy D's, Contract Services-$4,090.00; Blackburn Manufacturing, Supplies-$71.43; Brandon Sigmund, Refund-$159.24; Break Time Portables, Rental-$285.00; Breit Law Office, Garnishment-$249.73; Brown & Saenger, Supplies-$779.63; Builders Firstsource, Supplies-$279.93; C & B Operations, Supplies-$244.68; Calvin Hegg, Supplies-$160.00; Campbell Supply, Supplies-$145.21; Central Electric, Utilities-$1,799.74; Century Link, Utilities-$1,321.07; Chief Supply, Supplies-$50.70; CHR Solutions, Utilities-$3,063.64; City of Mitchell, Refund-$50.00; City of Sioux Falls, Lab Fees-$14.50; Coca Cola Bottling, Supplies-$1,605.95; Core-
Mark Midcontinent, Supplies-$5,118.72; Corn Palace Gift Shop, Supplies-$9.99; Councilman Hunsaker Operations, Contract Services-$7,367.51; County Fair, Supplies-$16.75; D & E Music & Vending, Supplies-$12.00; Dakota Tech, Supplies-$1,838.00; Dakota Retail Technologies, Repairs-$50.00; Dakota Riggers & Tool Supplies, Supplies-$206.50; Dakota Supply Group, Supplies-$368.72; Dakota Transit Association, Training-$250.00; Dayna Jones, Contract Services-$500.00; Dependable Sanitation, Contract Services-$23,800.00; Department of Social Services, Child Support-$1,147.99; Dice Benefits Consulting, July Fees-$513.00; Diesel Machinery, Supplies-$197.50; Doug's Custom Paint and Body, Supplies-$579.95; Dakota Wesleyan University, Dakota Wesleyan University Softball Fall Classic-$1,500.00; Eddie Money Entertainment, Contract Services-$30,000.00; Elliott Equipment, Supplies-$210.72; Emergency Education, Training-$330.00; Eric Hieb, Contract Services-$6,283.33; Farmers Alliance, Supplies-$1,508.81; Fastenal, Supplies-$35.61; FedEx, Transportation Charges-$12.82; First National Bank Omaha, Loan Payment-$10,694.15; Frito-Lay, Supplies-$220.20; Gary Lewis, Contract Services-$15,000.00; Gaylen's Homegrown Popcorn, Supplies-$1,621.20; GCR Tires & Service, Supplies-$3,409.06; Great Plains Roofing, 2017-35 P.E. #1-$48,000.00; Harve's Sport Shop, Supplies-$361.04; Hawkins, Supplies-$4,107.65; HD Supply Waterworks, Supplies-$874.58; Heartland Paper, Supplies-$31.42; Howes Oil, Supplies-$13,902.82; Integrity Transcription, Transcribing Service-$1,794.55; Interstate Office Products, Supplies-$523.66; Interstate Power Systems, Supplies-$47.95; Iverson Chrysler Center, Rental-$53.45; J & D Masonry, 2016-43 P.E. #2-$15,000.00; James Valley Nursery, Supplies-$1,026.57; Jarvis Weeldreyer, Reimbursement-$113.30; Jason Dicus, Reimbursement-$33.00; JCL Solutions, Supplies-$1,292.64; Jessica Pickett, Training-$9.18; Key Contracting, 2017-21 P.E. #1 Final-$198,401.90; Key to City Manufacturing, Supplies-$1,267.65; Kim Burg, Bus Fee-$128.00; Kimball-Midwest, Supplies-$165.04; Krohmer Plumbing, 2016-43 P.E. #2-$2,567.00; Larry's I-90 Service, Repair-$2,069.75; Mana, Bus Fee-$590.00; Maximum Promotions, Supplies-$72.00; McFarland Supply, Supplies-$476.91; McLeod's Printing, Supplies-$1,958.85; Mebius Nursery & Landscaping, Repairs-$485.00; Menard's, Supplies-$2,001.82; Mettler Implement, Repairs-$167.57; Meyers Oil, Supplies-$3,160.70; Michaels Fence & Supply, Supplies-$4,086.99; Midwest Laboratories, Lab Fees-$928.90; Midwest Turf & Irrigation, Supplies-$461.17; Mitchell Concrete Product, Supplies-$1,023.11; Mitchell Park & Recreation, Basketball Revenue-$280.00; Mitchell School District, Utilities-$1,296.15; Mitchell United Way, United Way Deductions-$168.67; MSH Architects, 2016-11 P.E. #17-$12,630.59; Mueller Lumber, Supplies-$909.25; Musco Sports Lighting, Supplies-$813.67; Muth Electric, Repairs-$208.06; Naeir, Supplies-$64.25; Napa Auto Parts, Supplies-$200.19; New Deal Tire, Supplies-$9,250.00; Newman Traffic Signs, Supplies-$3,388.49; National Independent Health Club, Membership-$99.00; Northwestern Energy, Supplies-$6,782.59; Northwestern Energy & Communications, Utilities-$37,756.62; Olsen Auction Service, Contract Services-$200.00; One Source, Background Checks-$42.00; Pepsi Cola, Supplies-$655.94; Peterbilt of Sioux Falls, Supplies-$113.43; Peterson Concrete, Sidewalk Project 2017-$1,281.00;
Prairieland Collections, Garnishment-$234.13; Pro Contracting, Sidewalk Project-$114.80; Qualified Presort, Contract Services-$440.45; Rexwinkel Concrete, 2016-18 P.E. #4-$63,730.44; Rio Hot, Contract Services-$30,000.00; Roger Hazuka, Contract Services-$150.00; Ron's Bicycle and Locksmith, Supplies-$65.00; S & M Printing, Supplies-$313.00; Saga Communications of South Dakota, Contract-$127.50; Santel Communications, Utilities-$1,482.00; Scott Supply, Supplies-$78.75; South Dakota Department of Health, Lab-$840.00; South Dakota Department of Revenue, Supplies-$21.20; South Dakota Federal Property Agency, Supplies-$132.00; South Dakota Municipal League, Registrations-$900.00; South Dakota Newspaper Services, Advertising-$143.40; South Dakota Retirement System, South Dakota Retirement Systems-$48,996.88; South Dakota-Supplemental Roth 457, Roth 457 Contributions-$400.00; Secretary of State, Filing Fee-$30.00; Shane Taylor Construction, Sidewalk Project 2017-4-$1,728.52; Sheehan Mack Sales & Service, Supplies-$2,545.63; Sherwin-Williams, Supplies-$2,679.06; Shopko Stores Operating, Supplies-$50.98; Sioux Falls Two-Way Radio, Supplies-$395.47; Ss-Supplemental Retirement, Supplemental Retirement-$2,726.66; Standard Insurance Company, Life Insurance-$395.16; Streicher's – Minneapolis, Supplies-$1,558.47; Sturdevant's Auto Parts, Supplies-$1,624.36; Subway, Meals-$43.75; Sun Gold Sports, Supplies-$276.80; Tate Crago, Refund-$50.00; Teamsters Local No. 120, Union Dues-$807.00; Tessori's, Repairs-$442.21; The Last Outlaws, Contract Services-$15,000.00; Thune True Value Hardware, Supplies-$372.70; TK Electric, Repairs-$186.08; TMA Stores, Supplies-$322.16; Top Grade Concrete, 2017-4D P.E. #5-$4,256.72; Tyler Technologies, Maintenance-$1,100.00; Van Diest Supply, Supplies-$951.50; Vast Broadband, Advertising-$55.96; Verena Rickett, Repairs-$7.50; Vern Eide Chevrolet Buick, Police Tow-$170.00; Walmart, Supplies-$82.30; Wegner Auto, Vehicle-$23,389.00; Well Beats, Software-$199.00; Wheelco Brake & Supply, Supplies-$555.38; Wholesale Electronics, Repair-$285.57.

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

CITIZENS INPUT:

Council Member Kevin McCardle inquired about the progress on Duff Street. Public Works Director Tim McGannon said that the city’s portion is complete and is waiting on a contractor to finish the curb and gutter work.

Council Member Dan Allen inquired about the sidewalks east of Shopko. Deputy Director of Public Works Terry Johnson said that the contractor has been working on miscellaneous sidewalks in town and is currently working on Burns Street and then will complete the sidewalks east of Shopko.

HEARING:
It was advised that this is the date and time set for hearing on the application to transfer Retail (On-sale) Liquor License RL-5756 from Grace LLC, 1525 West Havens Ave dba Ramada Inn to Boehnen Corporation, 1525 West Havens Ave, Mitchell dba Ramada Inn. Notice of hearing has been given and affidavit of publication is on file. Moved by Allen, seconded by Rice, to approve said application. Motion carried.

**RESOLUTIONS:**

Moved by Smith, seconded by Rice, to approve Resolution #R2017-63, Approval of Annexation (South of 915 E Havens) as follows:

**RESOLUTION NO. R2017-63**

A RESOLUTION APPROVING THE ANNEXATION OF CERTAIN REAL PROPERTY LEGALLY DESCRIBED AS:

That portion of Irregular Tract No. 4 in Lot Three (3) of the Northeast Quarter (NE1/4) of Section Twenty-seven (27), Township One Hundred Three (103) North, Range Sixty (60), West of the 5th P.M., Davison County, South Dakota, abutting and lying west of a line which is 908.70 Feet west of and parallel to the East section line of said Northeast Quarter (NE1/4).

Whereas: Rocky Brenden and Diane Brenden are the sole owners and petitioners of the real property described above, and

Whereas: There are no registered voters residing on the real property and there are no persons residing on the real property to be annexed, and

Whereas: There are no improvements on the real property, and

Whereas: The real property is contiguous to the corporate limits of the City of Mitchell, Davison County, South Dakota, and

Whereas: A visual depiction is hereto attached as an exhibit (Exhibit A).

NOW THEREFORE be it resolved that in accordance with SDCL Chapter 9-4, the City Council of the City of Mitchell, Davison County, South Dakota hereby annexes the above described real property.

Motion carried and resolution declared duly adopted.

Moved by Rice, seconded by Allen, to adopt Resolution #R2017-64, Creation of TID #24 as follows:

**RESOLUTION NO. R2017-64**

A RESOLUTION PROVIDING FOR THE CREATION OF CITY OF MITCHELL TAX INCREMENTAL DISTRICT NUMBER TWENTY-FOUR
WHEREAS, the City of Mitchell has the power, pursuant to SDCL 11-9-2, to create Tax Incremental District Number Twenty-four (TID 24) and to define the district’s boundaries; and

WHEREAS notice of the hearing before the city planning commission was provided pursuant to SDCL 11-9-3; and

WHEREAS, the City of Mitchell Planning Commission held a hearing at which any interested parties were afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district; and

WHEREAS the City of Mitchell Planning Commission after said hearing has recommended the proposed plan for Tax Incremental District Number Twenty-four and has recommended its creation and setting the boundaries as listed in the project plan.

THEREFORE, IT IS HEREBY RESOLVED:

1. There is hereby created, pursuant to SDCL 11-9, the City of Mitchell Tax Incremental District Number Twenty-four (TID 24).

2. The TID 24 is hereby created on September 5, 2017.

3. The District shall be located with the northern, western, and eastern boundaries of the following described real property:

   Parcel 1: Irregular Tract 1 and 2 within Lot 3 in the NE1/4 of 27-103-60

   Parcel 2:

   That portion of Irregular Tract No. 4 in Lot Three (3) of the Northeast Quarter (NE1/4) of Section Twenty-seven (27), Township One Hundred Three (103) North, Range Sixty (60), West of the 5th P.M., Davison County, South Dakota, abutting and lying west of a line which is 908.70 Feet west of and parallel to the East section line of said Northeast Quarter (NE1/4).

4. A hearing by the City of Mitchell Planning Commission concerning the creation and boundaries of TID 24 was held on September 5, 2017.

5. Pursuant to SDCL 11-9, the City Council hereby approves the project plan and the proposed boundaries as recommended by the City of Mitchell Planning Commission and hereby finds that the tax incremental plan addresses and meets each of the eleven (11) mandated requirements for a tax incremental district, as set forth in SDCL 11-9, to include that:

   a. not less than fifty percent (50%) by area of the real property within the proposed tax increment district will stimulate and develop the general economic welfare and prosperity of the City of Mitchell and State of South Dakota through the
promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources;
b. the improvement of the area is likely to enhance significantly the value of substantially all of the other real property in TID 24 pursuant to SDCL 11-9-10;
c. development of TID 24 will create new jobs;
d. development of TID 24 will assist a major employer within the City; and
e. development of TID 24 will ensure that the expansion happens in the City of Mitchell and not any another city.

As such, the City adopts the economic development statement contained within the project plan.

6. The City finds that the plan is feasible and in conformity with the master plan of the municipality.

7. The City hereby directs the City of Mitchell Finance Officer to take such action as is deemed necessary to accomplish SDCL 11-9-20.

8. There is hereby created, pursuant to SDCL 11-9-31, the Tax Incremental District Number Twenty-four Fund (TID 24 Fund).

9. All tax increments collected pursuant to TID 24 shall be deposited into the TID 24 Fund.

10. All funds in the TID 24 Fund shall be used solely for the purposes expressly stated and reasonably inferred in SDCL 11-9.

11. The City finds that the aggregate assessed value of the taxable property in the district plus the tax incremental base of all other existing districts does not exceed ten percent of the total assessed value of taxable property in the municipality.

12. The project plan is on file with the City of Mitchell Finance Officer.

13. The Mayor is authorized to execute the Exclusive Developer’s Agreement in accordance with the provisions of this Resolution and the Project Plan.

Motion carried and resolution declared duly adopted.

**ORDINANCE:**

Moved by Allen, seconded by Doescher, to place Ordinance #O2017-14, Rezoning Certain Land South of 915 E Havens from HB-Highway Business to I-Industrial on first reading. Motion carried.

Council Member Marty Barington arrived at 6:25 p.m.
Property owner Dan Koupal spoke in regards of the odor coming out of the canning facility. Representatives from Pet Performance said that the odor will be reduced with the new equipment being installed.

**BOARD OF ADJUSTMENT:**

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

**SET DATE:**

Moved by Smith, seconded by Rice, to set date for September 18, 2017 for a hearing on the application of Todd & Nancy Boyd for a backyard (road side) variance of 16 feet vs. 25 feet as required and a front yard (lake side) variance of 24 feet vs. 25 feet as required for construction of a new home, located at 191 South Harmon Drive, legally described as Lot 96, Indian Head Subdivision Lake Development Plan, City of Mitchell, Davison County, South Dakota. The property is zoned RL Residential Lake District. Motion carried.

**HEARINGS:**

Moved by Rice, seconded by Barington, to table hearing on the application of CJG Properties LLC for a conditional use permit for construction of self-service storage facilities with varying compartment sizes, fifty (50) to four hundred (400) square feet per compartment, with the stipulation the property be adjacent to a major collector or arterial street as designated by the public works department, located at 1821 West 8th Avenue, legally described as Lots 1-6, Block 3, Home Park Original Addition, Davison County, South Dakota. The said real property is zoned (R4) High Density Residential District. Notice of hearing has been given according to statute and affidavit of publication is on file. Motion carried.

Moved by McCardle, seconded by Allen, to table hearing on the application of CJG Properties LLC for the following variances; front yard of 10’ vs 25’, side yard on a corner of 5’ vs 15’ and back yard of 8’ vs 25’, for construction of self-service storage facilities with varying compartment sizes, fifty (50) to four hundred (400) square feet per compartment, with the stipulation the property be adjacent to a major collector or arterial street as designated by the public works department, located at 1821 West 8th Avenue, legally described as Lots 1-6, Block 3, Home Park Original Addition, Davison County, South Dakota. The said real property is zoned (R4) High Density Residential District. Notice of hearing has been given according to statute and affidavit of publication is on file. Motion carried.

Moved by Smith, seconded by Barington, to table hearing on the application of Terra Eldeen for a home occupation/conditional use permit to operate a beauty salon, located at 176 S Harmon Drive, legally described as W 75’ of Lot 12, Block 2, Indianhead 2nd Addition, City of Mitchell, Davison County, SD. The property is zoned RL Residential
Lake District. Notice of hearing has been given according to statute and affidavit of publication is on file. The Planning Commission recommended denial of said application. Motion carried.

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

ORDINANCE:

Moved by Rice, seconded by McCardle, to place Ordinance #O2017-13, 2018 Annual Appropriation Ordinance on first reading. Motion carried.

CONSIDER APPROVAL:

Moved by Allen, seconded by Rice, to approve the change of the Downtown Decorative Street Lights from Metal Halide to LED lights in the amount of $24,034.00 contracted to Muth Electric. Motion carried.

AWARD BID:

Bids were opened and read on Rock Salt Project #2017-27 on the 29th of August, 2017 in the Council Chambers of City Hall. Moved by Smith, seconded by Barington, to award the project, as follows:

ROCK SALT
CITY PROJECT#2017-27

Blackstrap Inc., East Highway #275, Box 258, Neligh, Nebraska 68756.

Crushed Rock Salt—FOB Mitchell: 700 Tons $58.70/Ton $41,090.00

Motion carried.

CONSIDER APPROVAL:

Moved by Rice, seconded by McCardle, to approve and authorize the Mayor to sign Agreement #A2017-24, Amended Rural Fire Service Agreement between Mitchell Rural Fire District and the City of Mitchell due to annexing additional sections into the district. Motion carried.

RESOLUTIONS:

Moved by Rice, seconded by Allen, to table Resolution #R2017-40 Indefinitely, Vacation of Public-Right-Way described as: The N1/2 of Andrews Street Abutting Block 21, Weaver's Squares Addition, an Addition to the City of Mitchell, Davison County, SD as shown on the plat recorded March 1, 2017, Book 32, Page 3. This Portion of E. Andrews St has been described historically as Avenue "K East" and Avenue "K". Motion carried.

09-05-17
Moved by Rice, seconded by Barington, to approve Resolution #R2017-59, A Plat of Lot 1, Block 4A of Westwood First Addition, a Subdivision of a Portion of Tract A-2 and Block 4 of Westwood First Addition in the NW 1/4 of Section 16, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota as follows:

RESOLUTION NO. R2017-59

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 28th day of August, 2017; and

Whereas, it appears from an examination of the plat of LOT 1, BLOCK 4A OF WESTWOOD FIRST ADDITION, A SUBDIVISION OF A PORTION OF TRACT A-2 AND BLOCK 4 OF WESTWOOD FIRST ADDITION IN THE NW ¼ OF SECTION 16, 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, and that said plat is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law.

Therefore, be it resolved by the City Council of Mitchell, South Dakota, that the plat of LOT 1, BLOCK 4A OF WESTWOOD FIRST ADDITION, A SUBDIVISION OF A PORTION OF TRACT A-2 AND BLOCK 4 OF WESTWOOD FIRST ADDITION IN THE NW ¼ OF SECTION 16, T 103 N, R 60 W OF THE 5TH P. M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, 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 Allen, seconded by McCardle, to approve Resolution #2017-60, A Plat of Lot 2 in the Replat of Tract G, Wild Oak Golf Club Addition to the City of Mitchell, Davison County, South Dakota as follows:

RESOLUTION #R2017-60

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 28th day of August, 2017; and

Whereas, it appears from an examination of the plat of LOT 2 IN THE REPLAT OF TRACT G, WILD OAK GOLF CLUB ADDITION TO THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, and that said plat is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law.

Therefore, be it resolved by the City Council of Mitchell, South Dakota, that the plat of LOT 2 IN THE REPLAT OF TRACT G, WILD OAK GOLF CLUB ADDITION TO THE CITY OF
MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, 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 #R2017-61, A Plat of Lot 3 in the Replat of Tract H, Wild Oak Golf Club Addition to the City of Mitchell, Davison County, South Dakota as follows:

RESOLUTION NO. R2017-61

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 28th day of August, 2017; and

Whereas, it appears from an examination of the plat of LOT 3 IN THE REPLAT OF TRACT H, WILD OAK GOLF CLUB ADDITION TO THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, and that said plat is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law.

Therefore, be it resolved by the City Council of Mitchell, South Dakota, that the plat of LOT 3 IN THE REPLAT OF TRACT H, WILD OAK GOLF CLUB ADDITION TO THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, 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 #R2017-62: A Resolution Relating to Lease-Purchase of the Aquatic Facility Project in an Amount not to Exceed $2,500,000.00 Authorizing the Execution and Delivery of a Ground Lease, Lease and Approving and authorizing Execution of Related Documents as follows:

RESOLUTION NO. R2017-62

RESOLUTION RELATING TO LEASE-PURCHASE OF THE AQUATIC FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $2,500,000; AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, LEASE AND APPROVING AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS.

WHEREAS, the City is authorized by South Dakota Codified Laws, Chapter 9-12-1 and 9-21-18.1 inclusive, as amended (the "Act"), to enter into a lease for acquisition of real and personal property that the governing body considers necessary or appropriate to carry out its governmental and proprietary functions. The governing body deems that it is necessary and appropriate to complete the construction and equipping of an Indoor Aquatic Center (the “Aquatic Facility Project”).
BE IT RESOLVED by the Common Council of Mitchell, South Dakota (the "City"), as follows:

Section 1. Conditions satisfied. All acts, conditions and things required by law to exist, happen and be performed precedent to and in the execution of a Ground Lease and Lease have existed, happened and been performed in due time, form and manner as required by law, and the City is now authorized pursuant to every requirement of law to execute a Ground Lease (the “Ground Lease”) and Lease (the “Lease”) in the manner and form as is provided in this resolution.

Section 2. Lease Financing. The City does hereby authorize and declare a necessity to enter into a ground lease (the “Ground Lease”), as lessor, and a lease (“Lease”), as lessee, of certain land and improvements located on real property legally described as:

Lot 1 of Aquatic Center First Addition, A Subdivision of Irregular Tract No. 5, in the SW ¼ of Section 15, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota, platted recorded B 32 P 46. (the “Land”)

The City does hereby authorize the entering into a Ground Lease upon land owned by the City and the issuance and execution of the Lease.

Section 3. Forms of the Documents. Forms of the following documents relating to the Aquatic Facility Project (the “Documents”) shall be prepared and submitted to the City, and are hereby directed to be filed with the City Finance Officer and are open to public inspection at the City Finance Office during regular business hours: (a) the Lease, (b) the Ground Lease, and (c) any related documents as may be required. The forms of Documents are approved, subject to such modifications as are deemed appropriate and approved by the City Attorney. The Mayor and City Finance Officer are directed to execute the Lease, the Ground Lease and the related documents. The Mayor, City Finance Officer, City Attorney and are also authorized and directed to execute such other instruments as may be required to give effect to the transactions therein contemplated.

Section 4. Authorization and Approval of the Documents. The financing described above is found to be favorable and is hereby approved. The Mayor and Finance Officer are authorized to approve the final terms of the Ground Lease and Lease. The principal component amount of the Lease shall not exceed $2,500,000

Section 5. Payment of Lease Payments. The City will pay to the purchaser of the Lease promptly when due, all annual Lease Payments (“Lease Payments”) and other amounts required by the Lease, all subject to annual appropriations. To provide moneys to make such payments, the City intends to include in its annual budget, for each fiscal year, moneys sufficient to pay and for the purpose of paying all Lease Payments and other amounts payable under the Lease, and will take all other actions necessary to provide moneys for the payment of the obligations of the City under the Lease from sources of the City lawfully available for this purpose, including the levy of such taxes as may be necessary therefor, subject only to the limitations on such levies imposed by South Dakota law. Said Lease shall not constitute debt with the meaning of the South Dakota Constitution Article XIII Section 4 and the levy for payment of the Lease shall be an annual levy.
Section 6. Tax Matters. The City covenants and agrees with the purchaser and the registered owner from time to time of the Lease, that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on Lease to become subject to taxation under §103 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Lease will not become subject to taxation under the Code and the Regulations. The City will comply with the provisions of Section 148(f) the Code, relating to the rebate of arbitrage profits to the United States, if and to the extent that such provisions are applicable to the Lease.

Section 7. Arbitrage Certification. The Mayor and the Finance Officer, being the officers of the City charged with the responsibility for the Lease pursuant to this Resolution, are authorized and directed to execute and deliver to the Bank the Lease in accordance with the provisions of Section 148 of the Code, and Sections 1.148-1 et al of the Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Lease which make it reasonable to expect that the proceeds of Lease will not be used in a manner that would cause the Lease to be arbitrage bonds within the meaning of the Code and Regulations.

Section 8. Qualified, Tax-Exempt- Obligation. The City hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code relating to the disallowance of interest expense for financial institutions, and hereby finds that the reasonably anticipated amount of qualified tax-exempt obligations (within the meaning of Section 265(b)(3) of the Code) which will be issued by the City and all subordinate entities during calendar year 2017 including the issuance of the Lease does not exceed $10,000,000.

Section 9. Retention of Bond Counsel and Private Placement Agent. The City does hereby authorize the retention of Meierhenry Sargent LLC as bond counsel and Dougherty & Company LLC as placement agent.

Section 10. Authorization of Officers. The Mayor, City Administrator, Finance Officer and City Attorney are authorized and directed to take such action as they deem necessary to carry out the intent of this resolution.

Section 11. Record Retention and Post Issuance Compliance. The City does hereby adopt written post issuance compliance procedures with regard to the current financing. The Finance Officer is directed to retain records with regard to this financing for the entire term of the financing plus three years and to keep record of all payments for six years after the payment has been made. The Finance Officer is appointed as the chief compliance officer.

Section 12. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

Motion carried and resolution declared duly adopted.

EXECUTIVE SESSION:
Moved by Rice, seconded by McCardle, to go into Executive Session as permitted by SDCL 1-25-2 (4) Preparing for contract negotiations or negotiating with employees or employee representatives. Motion carried.

Mayor Toomey declared the board out of executive session at 7:55 p.m. and the City Council to reconvene in regular session at 7:56 p.m.

**ADJOURN:**

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

[Signature]
Michelle Bathke
Finance Officer

Published once at the approximate cost of ____________.