

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

May 7, 2018  
6:00 P.M.

**PRESENT:** Marty Barington, John Doescher, Kevin McCardle, Mel Olson, Steve Rice,  
Jeffrey Smith, Susan Tjarks

**ABSENT:** Dan Allen

**PRESIDING** Mayor Jerry Toomey

**AGENDA:**

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

- a. City Council Minutes
  1. City Council Minutes April 16, 2018,
  2. Special City Council Minutes April 23, 2018, and
  3. Special City Council Minutes May 3, 2018.
- b. Raffle Permits
  1. Mitchell Heart & Sole Cancer Walk with the drawing to be held on June 8, 2018,
  2. Holy Family Catholic Church with the drawing to be held on June 17, 2018,
  3. Purr N Ruff Rescue with the drawing to be held on June 17, 2018,
  4. Helping with Horsepower with the drawing to be held on May 12, 2018, and
  5. Team Rubicon with the drawing to be held on May 12, 2018.
- c. Approve Taxicab License of Terry Wipf DBA as LYFT.
- d. Set date of May 21, 2018 for hearings
  1. On the application of Corn Palace Shrine Club for a Special Event Liquor License on June 2, 2018 for a wedding dance.
  2. On the application to transfer Retail (On-Sale) Liquor License RL-5761 from Bates Enterprises LLC, dba Big Dummy's/Longhorn Bar, 108-112 North Main, Mitchell, South Dakota to Bates Enterprises LLC, dba Big Dummy's/Longhorn Bar, 108-112 North Main, Mitchell, South Dakota due to configuration of liquor license.
  3. On the application to transfer Retail (On-Sale) Liquor License RL-5764 from Bates Enterprises LLC, dba Brew Parlor, 400 North Main Street STE 210, Mitchell, South Dakota to Bates Enterprises LLC, dba Brew Parlor, 108 North Main Suite A, Mitchell, South Dakota
  4. On the application to transfer Retail (On-Sale) Liquor License RL-5766 from R.R. Enterprises Inc. dba Sneaker's Peanut Bar, 1514 N Sanborn Blvd Ste A, Mitchell, South Dakota to MG Oil Company dba Village Bowl, 1500 N Duff Ste A, Mitchell, South Dakota
  5. On the application to transfer Retail (On-Sale) Wine License RW-23600 from R.R. Enterprises Inc. dba Village Casino, 1500 N Duff Ste E, Mitchell, South

- Dakota to MG Oil Company dba Village Bowl, 1500 N Duff Ste A, Mitchell, South Dakota (License is inactive),
6. On the application to transfer Retail (On-Sale) Wine License RW-6464 from R.R. Enterprises Inc. dba Village Bowl-Spare Change Casino, 1500 N Duff Ste C, Mitchell, South Dakota to MG Oil Company dba Village Bowl 3, 1500 N Duff Ste C, Mitchell, South Dakota.
  7. On the application to transfer Retail (On-Off Sale) Malt Beverage License RB-23601 from R.R. Enterprises Inc. dba Lucky Lady II, 1500 N Duff Ste 3, Mitchell, South Dakota to MG Oil Company dba Village Bowl 5, 1500 N Duff Ste E, Mitchell, South Dakota.
  8. On the application to transfer Retail (On-Off Sale) Malt Beverage License RB-2844 from R.R. Enterprises Inc. dba Lucky Lady Casino, 1500 N Duff Ste D, Mitchell, South Dakota to MG Oil Company dba Village Bowl 4, 1500 N Duff Ste E, Mitchell, South Dakota, and
  9. On the application to transfer Retail (On-Off Sale) Malt Beverage License RB-2828 from R.R. Enterprises Inc. dba Village Bowl & Lge/Spare Change Casino, 1500 N Duff Ste B, Mitchell, South Dakota to MG Oil Company dba Village Bowl 2, 1500 N Duff Ste B, Mitchell, South Dakota.
- e. Declare Surplus – Badges & Fire Helmets.
  - f. Declare Surplus – Survivair SCBA Packs.
  - g. Authorization to accept 5310 Transit Funds for Preventative Maintenance.
  - h. Change Order #6 for Mitchell Aquatics Center City Project #2016-11 increasing contract amount by \$1,855.71 for block sealer to burnished CMU walls, deduct landscaping allowance not used, eliminate the championship start system, and add waterslide run-out sump pit grating contracted to Puetz Construction, adjust contract amount to \$7,624,683.71.
  - i. Change Order #1 for Sanborn Boulevard Utility & Street Improvements City Project #2018-22 increasing contract amount by \$26,733.20 for addition of sidewalk, curb & gutter work and related improvements and eliminating miscellaneous water main system and service materials at the Birch and Sanborn intersection contracted to BX Civil and Construction, adjust contract amount to \$1,885,953.90.
  - j. Change Order #3 for South Burr Street Utility Improvements City Project #2016-26A increasing contract amount by \$402,450.23 to upgrade the water mains to support the plan for future water distribution center north of the B-Y Pit near the MTI Campus and decreasing contract amount by \$176,198.13 for removal of items replaced by change orders contracted to T & R Contracting, Inc., adjust contract amount to \$1,374,085.07.
  - k. Approve Agreement #A2018-18, Burr Street City Project #2016-26A for use and Restoration of Detour and/or Wet Weather Detour with SDDOT.
  - l. Pay Estimates May 7, 2018
    - Pay Estimate #25 in the amount of \$10,557.69 for Mitchell Aquatic Center #2016-11 contracted to MSH Architects,
    - Pay Estimate #2 in the amount of \$10,563.30 for Forcemain Phase III - Schedule "D" #2017-12 contracted to TK Electric,
    - Pay Estimate #1-Final in the amount of \$58,126.92 for 2-Police Interceptors SUV #2018-16 contracted to Vern Eide Ford,
    - Pay Estimate #1-Final in the amount of \$135,000.00 for Compost Rock Screener

#2018-18 contracted to Hennen Equipment Inc.,  
Pay Estimate #1 in the amount of \$279,417.33.00 for Sanborn Street Phase I  
#2018-22 contracted to BX Civil & Construction, and  
Pay Estimate #2 in the amount of \$450.00 for Rec Center Reroof – Phase II #2018-  
24 contracted to LL Jirsa, Architect.

- m. 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 MARCH 25, 2018 – APRIL 7, 2018:** City Council \$3,016.00, Mayor  
\$1,255.00, City Administrator \$4,658.42, Attorney \$3,871.18, Finance \$13,031.07,  
Human Resources \$3,382.92, Municipal Building \$3,432.49, Information  
Technology \$2,363.92, Police \$69,462.06, Traffic \$4,426.45, Fire \$49,257.77,  
Street \$28,422.34, Public Works \$15,066.43, Cemetery \$3,686.48, Animal Control  
\$1,591.92, Emergency Medical Services \$12,619.86, Library \$11,763.83,  
Recreation & Aquatics \$6,994.30, Recreation Center \$10,054.28, Sports  
Complexes \$10,566.22, Parks \$8,787.24, Supervision \$5,010.24, E911 \$22,773.53,  
RSVP \$5,523.97, Palace Transit \$20,045.74, JVCC \$1,439.00, Nutrition \$1,044.39,  
Water Distribution \$8,839.53, Sewer \$13,495.45, Airport \$2,698.35, Waste  
Collection \$11,198.61, Landfill \$8,828.86, Corn Palace \$17,347.28, Golf Course  
\$6,236.27.

**NEW HIRES:**

COMMUNITY SERVICES: Donald Trebil-\$16.936.

CORN PALACE: Riley Gregerson-\$8.85.

PARKS: Jordan Thill-\$10.35, Kaden Soukup-\$8.85, Boyd Hanselman-\$9.35,  
James Gilchrist-\$11.35, Ron Jirsa-\$11.85, Stanley L Foubert-\$11.35, Cole Wedel-  
\$10.85, Tyler Sipes-\$10.85, Ernest Bies-\$11.85.

**SALARY ADJUSTMENTS:**

FIRE: Brandon Manchester-\$18.061, Zachary Dalrymple-\$20.450.

LANDFILL: Jaylon Tollefson-\$27.088.

PARK: Brad Gates-\$21.687.

WASTEWATER: Kerry Plooster-\$25.17.

PUBLIC WORKS: Joe Galpin-\$23.644.

**WARRANTS:** A & B Business Solutions, Supplies-\$4,332.66; A & G Diesel,  
Repairs-\$53.48; AAA Collections, Contract Services-\$10.00; Accounts  
Management, Garnishment-\$269.02; Adam Fosness, Contract Services-\$2,060.00;

Advance Auto Parts, Supplies-\$16.99; AFSCME Council 65, Union Dues-\$495.18; Ag Systems, Supplies-\$125.38; AIA, Supplies-\$71.04; Al's Engraving, Contract Services-\$6.90; American Garage Door, Repair-\$205.79; American Ice, Supplies-\$370.00; Ameripride Services, Supplies-\$271.73; Aqua-Pure, Supplies-\$1,562.50; Aramark, Supplies-\$59.91; Avera Occupational Medicine, Contract Services-\$934.19; B & L Communications, Professional Services-\$945.00; Bailey Metal Fabricators, Repairs-\$191.46; Bannworth Trucking, Supplies-\$1,700.00; BBBB's of South Dakota, Supplies-\$261.60; Beacon Athletics, Supplies-\$1,260.00; Bechen Electric, Maintenance-\$613.74; Bethesda Christian Counsel, Training-\$229.87; Big Daddy D's, Contract Services-\$6,400.00; Blackstrap, Supplies-\$1,740.46; Bound Tree Medical, Supplies-\$220.00; Break Time Portables, Rental-\$95.00; Brenmar, Supplies-\$1,101.35; Brown & Saenger, Supplies-\$55.11; BSN Sports, Supplies-\$2,889.97; BX Civil & Construction, 2018-22 P.E. #1-\$279,417.33; C & B Operations, Supplies-\$67.09; Campbell Supply, Supplies-\$749.92; CDW Government, Supplies-\$421.06; Central Electric, Utilities-\$12,659.26; Century Link, Utilities-\$1,425.78; CHR Solutions, March Billing-\$2,999.57; Clean Sweep, Supplies-\$680.00; Climate Systems, Supplies-\$98.46; Coca Cola Bottling, Supplies-\$2,861.15; Core-Mark Midcontinent, Supplies-\$4,683.17; Corn Palace Concessions, Supplies-\$34.00; Corporate Translation Service, Professional Service-\$2.67; Counsilman Hunsaker Operation, Professional Service-\$2,036.37; Country Pride, Supplies-\$17,529.00; County Fair, Supplies-\$137.48; Crystal Schlingen, Travel-\$328.60; Daily Republic, Renewal-\$175.00; Dakota Fluid Power, Supplies-\$53.37; Dale Steffen, Supplies-\$90.00; Davison County Implement, Mower-\$3,527.50; Days Inn of Mitchell, Travel-\$43.50; Dean Knippling, Travel-\$11.00; Department of Social Services, Child Support-\$1,165.06; Design Solutions & Integration, Repairs-\$1,148.75; Dick's Towing, Police Tow-\$160.00; Don Everson, Travel-\$11.00; Douglas Sports Equipment, Supplies-\$1,449.00; Embe, Training-\$105.00; Eric Hieb, Contract Services-\$6,933.40; Evident, Supplies-\$436.57; Farmers Alliance, Supplies-\$1,197.78; Fastenal, Supplies-\$32.57; Fedex, Transportation Charges-\$15.21; Film Tools, Supplies-\$280.11; First National Bank Omaha, Loan Payment-\$12,025.93; Floor to Ceiling Store, Supplies-\$1,019.94; Forum Communications, Advertising-\$375.00; Fyra Engineering, Lake Mitchell Rehabilitation-\$19,979.54; Galls, Supplies-\$57.99; Gaylen's Homegrown Popcorn, Supplies-\$33.55; Gempler's, Shipping-\$588.84; Golden West Technologies, Repair-\$82.50; Governor's Inn, Travel-\$426.00; Graham Tire, Repairs-\$809.19; Harve's Pro Prints, Supplies-\$183.00; Harve's Sport Shop, Supplies-\$67.62; Heartland Paper, Supplies-\$205.42; Hennen Equipment, 2018-18 P.E. #1 Final-\$135,000.00; Henry Schein, Supplies-\$762.87; Hillyard/Sioux Falls, Repairs-\$660.10; Hohn's Carpet Cleaning, Contract Service-\$150.00; Hohn's Services, Service-\$16,101.60; Independent Viking Glass, Repairs-\$68.84; Innovative Office Solution, Supplies-\$192.85; Integrity Transcription, Transcribing Service-\$971.55; Interstate Glass & Door, Supplies-\$307.00; Interstate Office Products, Supplies-\$368.48; Jason Dicus, Reimbursement-\$133.50; JCL Solutions, Supplies-\$1,902.66; Joe Dolezal, Supplies-\$31.98; John Hegg, Travel-\$47.50; Johnson Controls, Repairs-\$1,943.81; Kehn's Carpet Cleaning, Contract Services-\$775.00; Kevin Thurman, Reimbursement-\$49.99; Kimball-Midwest, Supplies-\$261.42; Kone, Service Contract-\$756.72; Larry Jirsa,

2018-24 P.E. #2-\$450.00; Lifequest, 2018 Allocation-\$9,000.00; Linda L Logan Counseling, Contract Service-\$180.00; Lyndon Overweg, Travel-\$58.00; Lynn Peavey, Supplies-\$161.95; Make It Mine Designs, Supplies-\$1,873.00; Marilee Johnson-Geary, Contract Services-\$270.00; McFarland Supply, Supplies-\$13.13; McLeod's Printing, Supplies-\$395.93; Med-Tech Resource, Supplies-\$111.69; Medical Waste Transport, Supplies-\$127.41; Menard's, Supplies-\$1,235.87; Meyers Oil, Supplies-\$1,809.90; Microsoft, Supplies-\$912.00; Mid States Audio, Supplies-\$19.00; Mid-American Research Chemical, Supplies-\$409.34; Midcontinent Communication, Advertising-\$936.00; Midwest Fire & Safety, Maintenance-\$136.50; Midwest Turf & Irrigation, Supplies-\$997.46; Miscellaneous Vendor, Refund-\$129.92; Mitchell Area Development, 2nd 1/4 2018 Allocation-\$35,750.00; Mitchell Concrete Product, Supplies-\$120.53; Mitchell Rotary Club, Dues-\$120.00; Mitchell School District, Utilities-\$1,632.68; Mitchell Telecom, Utilities-\$104.79; Mitchell United Way, United Way Deductions-\$171.67; MSH Architects, 2016-11 P.E. #25-\$10,557.69; Mueller Lumber, Supplies-\$80.23; Muth Electric, Repair-\$525.87; Naeir, Supplies-\$32.00; Napa Auto Parts, Supplies-\$611.43; Northwestern Energy & Communications, Utilities-\$50,712.77; O'Connor & Son Trucking, Supplies-\$6,925.00; Odeys, Supplies-\$586.00; Office of Rural Health/Ems, Renewal-\$12.00; On Sight 24/7, Professional Service-\$300.00; Overtime Steak House and Sports Bar, City Banquet-\$3,235.24; Pepper Entertainment, Advertising-\$300.16; Pepsi Cola, Supplies-\$452.88; Photography Unlimited, Professional Service-\$710.00; Pipestone Publishing, Advertising-\$365.00; Porter Distributing, Supplies-\$1,872.20; Premier Pest Control, Contract Services-\$175.00; Qualified Presort, Mailing Service-\$409.42; R & R Enterprises, Advertising-\$1,000.00; R & R Products, Supplies-\$220.08; Roger Hazuka, Contract Services-\$150.00; S & M Printing, Supplies-\$436.00; Saga Communications of South Dakota, Advertising-\$470.00; Santel Communications, Utilities-\$1,794.16; Schumacher Elevator, Elevator Maintenance-\$195.00; Scott Supply, Supplies-\$4.95; South Dakota Building Officials, Dues-\$5.00; South Dakota Department of Health, Lab-\$587.00; South Dakota Department of Revenue, Supplies-\$63.60; South Dakota Federal Property Agency, Supplies-\$765.00; South Dakota Governmental Finance Officers School, Registration-\$150.00; South Dakota Governmental Human Resource School, Registration-\$50.00; South Dakota Retirement System, South Dakota Retirement Contributions-\$52,318.28; South Dakota-Retirement System, Supplemental Retirement-\$16,534.21; South Dakota Retirement System, Roth 457 Contributions-\$400.00; South Dakota Municipal League, 2017 Audited Billing-\$20,851.00; Sherwin-Williams, Supplies-\$1,392.10; Shopko Stores, Supplies-\$11.94; Stahl's Collision Center, Repair-\$330.15; Standard Insurance Company, Life Insurance-\$411.55; Sturdevant's Auto Parts, Supplies-\$2,112.56; Sun Gold Sports, Supplies-\$311.78; Teamsters Local No. 120, Union Dues-\$776.00; Three-D Specialties, Supplies-\$327.00; Thune True Value Hardware, Supplies-\$290.34; Ticketforce, Usage Fees-\$2,344.40; Titze Electric & Remodeling, Repairs-\$483.34; TK Electric, Maintenance-\$11,378.65; TMA Stores, Repair-\$13.10; Tobins Transfer, Service-\$767.55; Tractor Supply Credit Plan, Supplies-\$29.99; Traditions Meal Solutions, Contract Services-\$4,019.20; US Bank, TID #10-\$68,230.59; US Foods, Supplies-\$364.59; Vale Krietlow, Refund-\$622.50; Verizon Wireless, Utilities-\$641.19; Vern Eide Chevrolet Buick, Repairs-

\$1,872.50; Vern Eide of Mitchell, 2018-16 P.E. #1 Final-\$58,126.92; Voice Products, Repairs-\$200.00; Voorhees Plumbing, Repair-\$861.98; Walmart, Supplies-\$1,818.33; Waterous, Maintenance-\$469.78; Watertown Wholesale, Supplies-\$363.69; Wheelco Brake & Supply, Supplies-\$461.64; Wholesale Electronics, Supplies-\$99.89; Zimco Supply, Supplies-\$16,315.00; Ronald Randall, Earnest Money-\$500.00.

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

**CITIZENS INPUT:**

Council Member Tjarks commended Mitchell Main Street & Beyond for a great job at their First Friday Downtown, which was held Friday, May 4, 2018.

Mayor Toomey announced that the Veteran's Park Dedication Ceremony will be May 26, 2018 at 11:00 a.m. at the Mitchell Memorial Veterans Park. The Committee is selling Challenge Coins for \$20.00 if you are interested you can purchase one at the Department of Public Safety, Mitchell City Hall or the American Legion.

**COMMITTEE REPORT:**

The Public Health & Safety Committee met at 6:00 p.m. on May 7, 2018 and approved a fireworks permit for the Heart & Sole Cancer Walk on June 8, 2018.

Moved by Olson, seconded by Tjarks, to approve the Public Health & Safety Committee report. Motion carried.

**PROJECT UPDATES:**

City Administrator Stephanie Ellwein updated the City Council and the public on the following projects:

6<sup>th</sup> Avenue Plaza,  
Mitchell Aquatics Center,  
Sanborn Street,  
3<sup>rd</sup> & Main Building, and  
Additional Snow Removal.

**BOARD OF ADJUSTMENT:**

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

**SET DATE:**

Moved by Barington, seconded by Rice, to set date for May 21, 2018 on the application of Danielle Bultje for a conditional use permit to operate a family residential child care center in her home located at 508 E 13th Ave, legally described as Lot 5, Block 1. Shepards Addition. City of Mitchell, South Dakota. The property is zoned (R2) Single Family Residential District. Motion carried.

Moved by McCardle, seconded by Rice, to set date for May 21, 2018 on the application of Joseph & Heidi Geppert for a side-yard on a corner variance of 18 feet vs 20 feet and a side-yard variance of 2 feet 6 inches vs 3 feet as required for construction of a garage at their home at 700 E 2nd Ave, legally described as Lot 7, Block 16, FM Greene Addition, City of Mitchell, Davison County, South Dakota. Zoned R2 Single Family Residential District. Motion carried.

The Board of Adjustment reviewed the conditional use permit for John & Tracy Fink (The Corner Retreat) to operate a lodging house in the residential property located at 1400 North Capital St, legally described as Lot 7 & W 40' of Lot 8, Block 4, Northridge Addition, City of Mitchell, Davison County, SD. Zoned R2 Single Family Residential. Discussion took place and there were no concerns from the City Council or the public. No action was taken.

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

**CONSIDER APPROVAL:**

Moved by Olson, seconded by Rice, to approve the applications for renewal of On-Off Sale Malt Beverage Licenses. Motion carried.

**AWARD BIDS:**

Bids were opened and read on the 1500-1600 Blocks of East Hanson and 200-500 Blocks of South Wallace for Watermain Replacement City Project #2018-2 on the 10th day of April, 2018 at 1:30 p.m. in the Council Chambers of City Hall. Moved by Olson, seconded by Tjarks, to award the project tabled from the April 16, 2018 City Council meeting, as follows:

**WATERMAIN REPLACEMENT  
1500-1600 BLOCKS OF EAST HANSON, AND  
200-500 BLOCKS OF SOUTH WALLACE  
CITY PROJECT #2018-2**

Premier Contracting, LLC., PO Box 1402, Huron, South Dakota 57350.

Total Bid Schedule A \$186,428.55

Motion carried.

Bids were opened and read on the Rock Chips-City Project #2018-10 on the 2nd day of May, 2017 at 1:30 p.m. in the Council Chambers of City Hall. Moved by Tjarks, seconded by Barington, to award the project, as follows:

**ROCK CHIPS  
CITY PROJECT #2018-10**

Spencer Quarries, Inc., 25341 430<sup>th</sup> Avenue, Spencer, South Dakota 57374.

Quantity Bid	Unit Price	Total
Furnish Rock Chips 2,500 Ton	\$13.20	\$33,000.00

FOB Mitchell

Motion carried.

Bids were opened and read on the Petroleum Products Item #1 Project #2018-13 on the 30th day of April, 2018 at 1:30 p.m. in the Council Chambers of City Hall. Moved by Tjarks, seconded by Rice, to award as follows:

**PETROLEUM PRODUCTS  
CRS-2 EMULSION  
CITY PROJECT#2018-13**

Jebro Incorporated, 2303 Bridgeport Drive, Sioux City, Iowa 51111.

Description	Quantity Bid	Total
1. CRS-2 P-Emulsion delivered to Street Department storage tank in lots of approximate 5,000 gallons.	300 Ton	\$452.61

Motion carried.

Bids were opened and read on the Petroleum Products Item #2 Project #2018-13 on the 30th day of April, 2018 at 1:30 p.m. in the Council Chambers of City Hall. Moved by Barington, seconded by McCardle, to award as follows:

**PETROLEUM PRODUCTS  
CRACK SEALER  
CITY PROJECT#2018-13**

Brock White, 818 East 50<sup>th</sup> Street North, Sioux Falls, South Dakota 57104.

Description	Quantity Bid	Total
2. Crack Sealer in quantities as ordered	40,000 Ton	\$990.00



Motion carried.

**CONSIDER APPROVAL:**

Moved by Olson, seconded by Tjarks, to approve Agreement #A2018-16. Airport Aerial Applicators Agreement. Motion carried.

Moved by McCardle, seconded by Olson, to approve Agreement #A2018-17, Mitchell Regional Ambulance Medical Director between the City of Mitchell and Hilary Rockwell in the amount of \$1,500.00 per quarter during the term of the agreement. Motion carried.

**RESOLUTIONS:**

Moved by Barington, seconded by Rice, to approve Resolution #R2018-17. Vacating a Portion of East 6th Avenue, as follows:

**RESOLUTION NO. R2018-17**

**A RESOLUTION VACATING A PORTION OF EAST 6<sup>TH</sup> AVENUE**

WHEREAS, The Petition and consent in writing of the Mitchell Area Chamber of Commerce, a South Dakota non-profit corporation, and the City of Mitchell, a South Dakota municipal corporation, respectfully in due and proper form, requests the Governing Body of the City of Mitchell to vacate a portion of East 6<sup>th</sup> Avenue right-of-way set forth below pursuant to the statutes in such cases made, and provided, particularly SDCL 9-45-7, et. Seq. and the petitioners respectfully show and represent the following:

The portion of right-of-way to be vacated is as follows:

East 6th Avenue (also shown as 6th Street) from the east boundary of the Main Street right of way to the west boundary of the Lawler Street right of way located in Rowley's 1st Addition to the City of Mitchell, Davison County, South Dakota (then Dakota Territory); as shown on the plat recorded June 5, 1880, D.R. B:279.

WHEREAS, the Petition was presented to the City Council of Mitchell, South Dakota, in a regular meeting assembled on the 2nd day of April, 2018.

WHEREAS, This Council did thereupon consider said Petition and did find that said Petition and Consent in writing requesting and consenting to the vacation of said right of way was signed by all of the owners of the property abutting the right of way sought to be vacated.

WHEREAS, This Council did, by proper motion, made, seconded and carried in regular meeting assembled on the 2nd day of April, 2018 deem it proper that the matter be proceeded with and did order that the said Petition be filed with the City Finance Officer and did order said Finance Officer to give notice of a hearing thereon, by publication, as required by law, that said

Petition had been filed and that the same would be heard and considered by the Governing Body of the said City on the 7th day of May, 2018 at 6:00 p.m. in the Chambers of the City Council of the City of Mitchell, South Dakota; and

WHEREAS, Said Council did meet to consider and hear said Petition on the said 7th day of May, 2018 at the time and place specified in said Notice, and that the said Petition was duly heard and considered by this Council, the Petitioners and considerations of those objecting were heard by Council were presented in regards to said Petition, in writing or otherwise; and,

WHEREAS, This Council having duly heard and considered said Petition finds:

1. That due notice of the hearing of said Petition was given by the City Finance Officer by publication of a Notice thereof in the form as provided by law in the *Mitchell Daily Republic*, a newspaper, printed and published in the City of Mitchell, South Dakota, for two (2) successive weeks, to-wit: April 10th and 17th, 2018.
2. That the Petitioners are the sole owners of all of the property abutting the street right-of-way requested to be vacated and have requested that the said street right-of-way be vacated. Said owners having consented in writing to the vacation of said street and which consent is made part of the said Petition.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, South Dakota, in a regular meeting, on the 7th day of May, 2018, that the street right-of-way identified as East 6th Avenue (also shown as 6th Street) from the east boundary of the Main Street right of way to the west boundary of the Lawler Street right of way located in Rowley's 1st Addition to the City of Mitchell, Davison County, South Dakota (then Dakota Territory); as shown on the plat recorded June 5, 1880, D.R. B:279; is hereby vacated.

Motion carried and resolution declared duly adopted.

Moved by Rice, seconded by Olson, to approve Resolution #R2018-20. Approving a Corrective Easement, as follows:

### **RESOLUTION NO. R2018-20**

#### **A RESOLUTION APPROVING A CORRECTIVE EASEMENT**

WHEREAS the City of Mitchell is the Grantee of an Easement in relation to certain real property legally described as:

The West Sixty-six Feet (W.66') of that portion of the Southwest Quarter (SW1/4) of Section Thirty-five (35), Township One Hundred Three (103), Range Sixty (60), Davison County, South Dakota, lying west of the railroad right of way.

As such easement is recorded in Book 63, Page 44, in the Official Records of Davison County, South Dakota; and

WHEREAS such legal description incorrectly refers to the easement lying west of the railroad right of way when such easement was intended to be and was, and continues to be, actually utilizing the land lying east of the railroad right of way for purposes of a water pipeline.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the Release of Easement and Easement designed to correct the above described error, as presented to Council, are hereby approved.

IT IS FURTHER RESOLVED by the City Council of the City of Mitchell, SD that the Mayor of Mitchell, SD, is by these presents authorized, pursuant to SDCL 9-1-5, on behalf of the City of Mitchell, to execute the Quitclaim Deed, and supplementary documents, so long as such are in substantially the same form as has been presented to the Council.

Motion carried and resolution declared duly adopted.

**ORDINANCES:**

Moved by Smith, seconded by Tjarks, to place Ordinance #O2018-05, Creating Business Improvement District #3 on first reading. Moved by Smith, seconded by Olson, to rescind previous motion. Motion carried.

Moved by Rice, seconded by Smith, to table first reading of Ordinance #O2018-05, Creating Business Improvement District #3 to the May 21, 2018 City Council meeting. Motion carried.

Moved by Smith, seconded by Olson, to table first reading of Ordinance #O2018-06, Amending Mitchell City Code Section 5-6-1, Fireworks to the May 21, 2018 City Council meeting. Motion carried with Barington voting nay.

**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.

  
Michelle Bathke  
Finance Officer

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