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

**August 7, 2023**
**6:00 P.M.**

**PRESENT:** Marty Barington, Mike Bathke, John Doescher, Tim Goldammer, Kevin McCardle, Dan Sabers, Jeffrey Smith, Susan Tjarks

**ABSENT:**

**PRESIDING:** Mayor Bob Everson

Council Member Tjarks is present by phone.

**AGENDA:**

Moved by Goldammer, seconded by Barington, to approve the following items on the consent agenda:

a. City Council Minutes
   1. City Council July 17, 2023.
b. Committee Reports
   1. Planning Commission June 26, 2023,
   2. Planning Commission July 24, 2023 (unsigned), and
   3. Library Board May 16, 2023.
c. Automatic Supplements
   1. Park-Sports Complexes in the amount of $435.00 from a donation of funds,
   2. Park-Parks in the amount of $1,500.00 from a donation of funds,
   3. General-Police in the amount of $46,168.10 from grant funds, and
   4. General-Fire in the amount of $7,452.18 from insurance proceeds.
d. Raffle Permits
   1. Mitchell Pickleball Association with the drawing to be held on October 2, 2023,
   2. DWU Football with the drawings to be held on various dates in August, September, October, and November 2023,
   3. Longfellow PTO with the drawing to be held on September 22, 2023, and
   4. Davison County Republicans with the drawing to be held on September 7, 2023.
e. Special Event Permit for Grace Baptist Church Vacation Bible School Family Night on Friday, August 11, 2023.
f. Special Event Permit for RiverTree Block Party on Sunday, September 10, 2023.
g. Authorization to transfer $750,000.00 from the Health Insurance Fund to the General Fund for the repayment of interfund loans.
h. Change Order #1 for Paving & Overlay Project #2022-15 decreasing the contract amount by

$4,172.00 to Commercial Asphalt, adjust contract amount to $145,438.00.

i. Set date of August 21, 2023 for hearing

1. On the application to transfer RW-6530 Retail (on-off sale) Wine and Cider License from Meyers Oil Co Inc. dba Dakota Sunset Shell, 1524 W Havens Avenue to Dakota Sunset LLC dba Dakota Sunset LLC, 1524 W Havens Avenue,
2. On the application to transfer PL-4695 Package (off sale) Liquor License from Meyers Oil Co Inc. dba Dakota Sunset Shell, 1524 W Havens Avenue to Dakota Sunset LLC dba Dakota Sunset LLC, 1524 W Havens Avenue,
3. On the application to transfer RB-2838 Retail (on-off sale) Malt Beverage & SD Farm Wine License from Meyers Oil Co Inc. dba Dakota Sunset Shell, 1524 W Havens Avenue to Dakota Sunset LLC dba Dakota Sunset LLC, 1524 W Havens Avenue, and
4. On the application of Bulls Eyes and Birdies dba Bulls Eyes and Birdies, 1307 North Main Street for a new Retail (on-off sale) Malt Beverage & SD Farm Wine License.

j. Pay Estimates August 7, 2023

Pay Estimate #2 in the amount of $6,287.00 for Above Ground Pump Station #2020-20 contracted to GeoTek Engineering,

Pay Estimate #2 in the amount of $254,565.00 for Above Ground Pump Station #2020-20 contracted to Rice Lake West,

Pay Estimate #21 in the amount of $30,488.28 for Ground Storage Tank #2020-20 contracted to Infrastructure Design Group,

Pay Estimate #15 in the amount of $376.56 for West Side Water Tower #2021-03 contracted to SPN & Associates,

Pay Estimate #2 in the amount of $149,252.76 for Livesay Lane Improvements #2021-25 contracted to H&W Contracting LLC,

Pay Estimate #7 in the amount of $28,711.60 for Livesay Lane Improvements #2021-25 contracted to Infrastructure Design Group,

Pay Estimate #28 in the amount of $37,276.52 for North Wastewater Improvements #2021-31 contracted to HDR Engineering,

Pay Estimate #14 in the amount of $1,201,314.00 for North Wastewater Improvements #2021-31 contracted to PKG Contracting,

Pay Estimate #20 in the amount of $840.00 for Highway 37 Utilities #2021-45 contracted to SPN & Associates,

Pay Estimate #21 in the amount of $277.50 for Highway 37 Utilities #2021-45 contracted to SPN & Associates,

Pay Estimate #9 in the amount of $700.00 for Fuel Storage Tanks #2021-51 contracted to West Plains Engineering,

Pay Estimate #6 in the amount of $29,179.51 for Wastewater Treatment Plant Improvements-South Plant-Phase II #2022-01 contracted to HDR Engineering,

Pay Estimate #11 in the amount of $9,025.00 for 1st & Main/7th & Main Signals #2022-08 contracted to HR Green,

Pay Estimate #3 in the amount of $43,954.00 for Paving & Overlay #2022-15 contracted to Commercial Asphalt,

Pay Estimate #4 in the amount of $568.75 for North Harmon Sanitary Sewer Outfall #2023-06 contracted to SPN & Associates,

Pay Estimate #10 in the amount of $3,220.00 for South Lake Estates Development contracted

to SPN & Associates,
Pay Estimate #2 in the amount of $296,308.40 for Paving & Overlay #2023-15 contracted to Commercial Asphalt,
Pay Estimate #5 in the amount of $1,060.00 for Ohlman & South Harmon Lift Station #2023-16 contracted to SPN & Associates,
Pay Estimate #3 in the amount of $2,140.00 for Cadwell Booster Station #2023-19 contracted to SPN & Associates, and
Pay Estimate #1 in the amount of $754.14 for 2023 Bridge Inspections contracted to SD Department of Transportation.

k. 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 9, 2023 – JULY 22, 2023:** City Council $3,615.68, Mayor $1,562.81, City Administrator $6,092.50, Administrative Boards $2,211.81, Attorney $4,938.27, Finance $13,447.25, Human Resources $3,975.10, Municipal Building $3,369.60, Information Technology $3,053.20, Police $73,181.44, Traffic $3,154.40, Fire $37,185.36, Street $37,552.37, Public Works $25,252.28, Cemetery $8,505.43, Library $17,832.52, Recreation & Aquatics $33,040.68, Recreation Center $16,293.19, Sports Complexes $18,638.77, Cadwell Concessions-$1,893.93, Parks $27,184.09, Supervision $6,081.70, E911 $22,858.98, MVP $536.25, Palace Transit $29,782.03, JVCC $1,610.94, Nutrition $4,321.83, Water Distribution $16,184.44, Sewer $13,110.19, Airport $2,868.49, Recycling Program $6,959.70, Waste Collection $8,506.58, Landfill $11,188.47, Corn Palace $30,651.41, Golf Course $8,088.24, Campground $2,276.40, Emergency Medical Services $33,593.23

**NEW HIRES:**

CADWELL CONCESSIONS: Kaylee Bauder-$10.80, Megyn Estrada-$10.80, Jordyn Wilson-$10.80

PUBLIC WORKS: Emily Moody-$15.00

RECREATION CENTER: Kelsey Van Loh-$11.30

**SALARY ADJUSTMENTS:**

CORN PALACE: Porter Geppert-$12.80

E-911: Kalla Sauvage-$21.868

POLICE: Cole Albaugh-Edgecomb-$27.993

WATER DISTRIBUTION: Thomas Schumann-$29.437

**TERMINATIONS:**

FINANCE: Emily Moody

**WARRANTS**: A&B Business Solutions, Contract Services-$4,292.87; A-Ox Welding Supply, Supplies-$484.57; AAA Collections, Collection Fees-$40.00; Aaron Hieb, Reimbursement-$113.99; Abigail Squier, Reimbursement-$119.97; Accounts Management, Garnishment-$372.23; Advantage Auto Glass, Maintenance-$470.88; AFLAC, Aflac Withholding-$10,063.36; AFLAC Group, Critical Care-$460.78; AFACME Council 65, Union Dues-$604.80; Alex Young, Reimbursement-$45.00; Alignment X-Perts, Repair-$7 0.00; Amazon Capital Services, Supplies-$1,102.25; Andrea Hamilton, Reimbursement-$45.00; Andrew Schneider, Reimbursement-$45.00; Aqua-Pure, Supplies-$1,125.00; Aramark, Supplies-$544.32; Arctic Refrigeration, Repair-$217.47; AT&T Mobility, Utilities-$424.90; AT&T Mobility, Utilities-$1,199.35; ATV Holdings, LLC dba Mitchell Telecom, Utilities-$72.95; Avera Occupational Medicine, Contract Services-$470.00; Baker & Taylor, Books-$390.17; Bender's Sewer Cleaning, Maintenance-$2,015.00; Big Daddy D's, Contract Services-$6,759.20; Blackburn Manufacturing, Supplies-$236.76; Blackstone Publishing, Audiobooks-$171.99; Book Systems, Subscription-$3,395.00; Boyer Ford Trucks, Supplies-$337.49; Brad Gates, Reimbursement-$45.00; Brett Lowrie, Supplies-$20,000.00; Brian Daughters, Reimbursement-$45.00; Buhl's Drycleaners & Linen, Maintenance-$50.00; Builders First Source, Supplies-$338.79; Butler Machinery, Supplies-$2,366.86; C&B Operations, Supplies-$1,244.13; Carquest Auto Parts, Supplies-$8.29; Cengage Learning Inc/Gale, Books-$435.85; Center Point Large Print, Books-$94.08; Central Electric, Utilities-$12,167.74; Century Link, Utilities-$85.92; Chesterman, Supplies-$1,819.80; CHR Solutions, Billing Service-$6,522.10; CHS Farmers Alliance, Repair-$1,698.07; City of Mitchell, Golf Course Deductions-$1,697.58; City of Mitchell, Recreation Deductions-$1,879.53; City of Mitchell, Petty Cash-$1,000.00; City of Mitchell, June 2023 Hotel Tax-$1,065.00; City of Sioux Falls, June Water Tests-$101.50; CK Bicycles & Locks, Supplies-$98.00; Claims Associates, Claim-$1,891.67; Clark Equipment, Equipment-$61,346.64; CNA Surety Direct Bill, Notary Bond-$50.00; Commercial Asphalt/Spencer Quarries, Supplies-$347,779.94; Concrete Cowboys, Pre Sturgis-$10,000.00; Core & Main, Supplies-$8,621.16; Core-Mark Midcontinent, Supplies-$18,017.20; Corn Palace, Supplies-$322.00; Corporate Translation Service, Translation Services-$140.93; County Fair, Contract Services-$962.50; Craig Stucky, Reimbursement-$45.00; CSG Forte Payments, Credit Card System-$482.98; Dakota Counseling, 2023 Allocation-$3,250.00; Dakota Fluid Power, Supplies-$5,318.63; Dakota Heartland Development, 2023 3rd Quarter Allocation-$6,250.00; Dakota Pump, Repair-$2,142.47; Dakota Supply Group, Supplies-$1,456.86; Daniel Esh, Training-$65.00; David Sarne, Reimbursement-$54.00; Davison County Register of Deeds, Vacation Resolution-$30.00; Davison County Sheriff's Office, Alcohol Compliance Check-$108.90; Davison Rural Water Systems, June Usage-$91.80; Delta Dental Plan of South Dakota, Dental Insurance-$15,467.50; Dennis Geidel, Reimbursement-$45.00; Department of Agriculture, Solid Waste Surcharge-$9,244.63; Department of Motor Vehicle, 2023 Ford Super duty-$30.00; Department of Social Services, Child Support-$921.22; Dick's Towing, Impound Dropoff-$210.00; Dimock Dairy, Supplies-$378.00; Doug Greenway, Reimbursement-$45.00; Doug's Custom Paint & Body, Repairs-$8,276.74; Elfstrand's Ace Hardware, Supplies-$190.82; Elizabeth Morrison, Farmers Market Performance-$100.00; Eric Hieb, Contract Services-$9,157.39; Eurofins Environment Testing, Landfill Testing-$2,446.00; Fastenal, Supplies-$489.32; First National Bank Omaha, Loan Payment-$16,543.90; Fischer, Rounds, Notary Bond

Fee-$80.00; Fisher Scientific, Supplies-$469.73; Forum Communications, Advertising-$994.99; Gary Walton, Reimbursement-$45.00; Gaylen's Gourmet Popcorn, Supplies-$1,987.00; Golf Course Super Association of America, Membership Dues-$430.00; Geocomm, Service Contract-$5,775.00; Geotek Engineering & Testing, 2020-20 P.E. #2-$6,287.00; Graham Tire, Supplies-$399.94; Grainger, Supplies-$1,470.22; Grayscale Event Marketing, Advertising-$1,999.00; H&W Contracting, 2021-25 P.E. #2-$149,252.76; Hach, Supplies-$1,543.54; Harve's Sport Shop, Supplies-$19.87; Hawkins, Supplies-$14,957.05; HDR Engineering, 2021-31 P.E. #28-$66,456.03; Henry Schein, Supplies-$1,079.80; Honda of Mitchell, Supplies-$26.46; Howes Oil, Supplies-$16,751.32; HR Green, 2022-8 P.E. #11-$9,025.00; Imagetrend, Annual Fee-$3,062.00; Infrastructure Design Group, 2020-20 P.E. #21-$59,199.88; Ingram Library Services, Books-$1,771.13; Innovative Intelligent Pro, Supplies-$439.15; Innovative Office Solution, Supplies-$103.41; Intellipro Security, Service Call-$150.00; Interstate Office Products, Supplies-$335.81; Interstate Power Systems, Maintenance-$547.47; Iverson Chrysler Center, Rental-$69.95; Jabr Trucking, Vehicle Towing-$170.00; Jamie Henkel, Reimbursement-$45.00; Jaylon Tollefson, Reimbursement-$45.00; JCL Solutions, Supplies-$56.81; Jebro, Supplies-$252,975.86; Jeff Hanson, Reimbursement-$45.00; Joe Galpin, Reimbursement-$45.00; Joe Haiar, Reimbursement-$45.00; Joe Schroeder, Reimbursement-$45.00; Joelle Dammann, Reimbursement-$37.50; John Hegg, Reimbursement-$45.00; Jon Thurman, Reimbursement-$45.00; Jon Vermeulen, Reimbursement-$45.00; Jones Supplies, Supplies-$3,151.72; Kasseburg Canine Training, Dog Transport-$8,500.00; Kathy Hanks, Reimbursement-$45.00 ; Kathy Kaye Foods, Supplies-$3,916.80; Kevin Devries, Reimbursement-$45.00; Kevin Dykes, Reimbursement-$45.00; Kevin Kenkel, Reimbursement-$45.00; Kevin Roth, Reimbursement-$45.00; Kevin Sibson, Reimbursement-$45.00; Krohmer Plumbing, Supplies-$177.55; Larry's I-90 Service, Maintenance-$3,358.95; Leighton Family Farms, Supplies-$922.00; Library Furniture Internet, Supplies-$314.41; Liz Kitchens, Reimbursement-$45.00; M & T Fire and Safety, Supplies-$808.69; Make it Mine Designs, Supplies-$119.59; McKeever full service vending, Transfer Fee-$50.00; McLeod's Printing, Supplies-$55.99; Menard's, Supplies-$1,753.08; Merl Bechen, Contract Fees-$1,090.31; Michael Bathke, Travel-$140.48; Michael Leach, Reimbursement-$45.00; Michelle Bathke, Reimbursement-$45.00; Microsoft Corporation, On line Service-$910.00; Midcontinent Communication, Utilities-$113.39; Midwest Fire & Safety, Inspection-$219.50; Midwest Laboratories, Testing-$717.36; Midwest Oil, Supplies-$1,508.76; Midwest Turf & Irrigation, Supplies-$69.31; Millennium Recycling, Single Stream Fee-$2,308.60; Mitchell Animal Rescue, Management Fee-$700.00; Mitchell Area Development, Quarter Allocation-$41,750.00; Mitchell Area Housing, Nuisance Abatement-$5,127.63; Mitchell Baseball, South Dakota State Amateur Baseball-$5,000.00; Mitchell Coed Softball, USA Coed State Softball-$2,500.00; Mitchell Concrete Product, Supplies-$751.50; Mitchell Iron & Supply, Supplies-$388.22; Mitchell Lion's Club, Firework Cleanup-$1,500.00; Mitchell Main Street and Beyond, Quarter Allocation-$8,750.00; Mitchell United Way, United Way Deductions-$549.50; Mitchell Women's Softball, State Softball-$3,000.00; Mueller Lumber, Supplies-$26.38; Muth Electric, Supplies-$5,518.74; Nalco, Supplies-$237.87; Napa Central, Supplies-$702.07; Nate Hegg, Reimbursement-$45.00; Newman Signs, Supplies-$743.70 ; National Independent Health Club, Annual Membership-$99.00; Northwest Pipe Fittings, Supplies-$508.97; Northwestern Energy, Utilities-$49,118.55; Odeys, Supplies-$433.00; Overdrive, Books-$1,259.70; Parkeon, Monthly Service-$65.00; Paulson Sheet Metal, Supplies-$1,725.11; Pepsi Cola, Supplies-$2,919.43; Peter Arnold, Travel-

$136.00; Peterbilt of Sioux Falls, Supplies-$337.93; Pfeifer Implement, Equipment-$36,215.00; PKG Contracting, 2021-31 P.E. #14-$1,201,314.00; Porter Distributing, Supplies-$66.45; Powerplan-Oib, Supplies-$2,539.64; Premier Pest Control, Contract Services-$400.00; Public Health Laboratory, Labs-$1,304.00; Qualified Presort, Postage-$220.49; Quick Med Claims, Billing Services-$2,622.82; Recreonics, Supplies-$6,127.03; Rice Lake West, 2020-20 P.E. #2-$254,565.00; Robert McCardle, Reimbursement-$45.00; Roger Prewett II, Reimbursement-$45.00; Runnings Supply, Supplies-$3,255.21; Ryland Devries, Reimbursement-$45.00; S&M Printing, Supplies-$79.50; Schmucker, Paul, Nohr, 2021-3 P.E. #15-$13,348.33; Schoenfelder Portables, Rental-$320.00; Schumacher Elevator, Maintenance-$226.80; South Dakota Association of Rural Water, Annual Dues-$1,240.00; South Dakota Department of Transportation, 2023 bridge P.E.#1-$754.14; South Dakota Federal Property, Supplies-$28,575.00; South Dakota Planners, Annual Conference-$1,500.00; South Dakota Police Chiefs, Supplies-$1,215.96; South Dakota Retirement System, Retirement Contributions-$57,823.32; South Dakota State Treasurer, Tax Penalty-$282.47; South Dakota Supplemental Retirement, Supplemental Retirement-$2,779.50; South Dakota Supplemental Roth 457, Roth 457 Contributions-$1,208.50; Sherwin-Williams, Supplies-$3,834.92; Sign Pro, Supplies-$576.00; Sign Solutions, Supplies-$597.68; Siteone Landscape Supply, Supplies-$3,931.87; Stan Houston Equipment, Supplies-$4.35; Standard Insurance, Life Insurance-$2,414.66; Staples, Supplies-$950.20; Stephanie Ellwein, Reimbursement-$45.00; Steve Anderson, Reimbursement-$45.00; Sturdevants Auto Value, Supplies-$5,261.96; Subway, Meals-$47.94; Sun Gold Sports, Supplies-$1,182.90; Terry Johnson, Reimbursement-$45.00; Thomas Gulledge, Reimbursement-$45.00; Thomas Holleman, Reimbursement-$45.00; Thomas L Price, Service-$700.00; Thomas Schuman, Reimbursement-$45.00; Thune True Value & Appliance, Supplies-$584.63; Tim Goldammer, Travel-$140.48; TMA Stores, Repair-$1,458.34; Todd Cavanaugh, Reimbursement-$45.00; Tom Scott, Supplies-$350.00; Tractor Supply, Supplies-$6.54; Transource, Supplies-$643.96; Traupel Masonry & Concrete, Repairs-$510.00; Travis Platt, Reimbursement-$110.00; Tyler Vetch, Reimbursement-$45.00; Tylor Peterson, Reimbursement-$45.00; United Rentals (North American), Equipment Rentals-$1,038.87; Upper Midwest Garage Door, Maintenance-$795.91; UPS Store #4227, Postage-$112.66; Van Diest Supply, Supplies-$8,088.25; Van Laar Construction, Repair-$1,907.36; Verizon Wireless, Utilities-$360.09; Walmart/Capital One, Supplies-$441.43; Wanda Graves, Reimbursement-$45.00; West Plains Engineering, 2021-51 P.E. #9-$700.00; Wheelco Brake & Supply, Supplies-$345.24; Zimmer Caulking, Repairs-$122.40; South Dakota State Treasurer, Sales Tax Payment-$29,857.82; Ellwein Brothers, Supplies-$858.00.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

**CITIZENS INPUT:**

Mitchell resident, Stewart Hanson, discussed concerns with the lake and dredging.

Council Member Kevin McCardle thanked Jeff Krall for using his helicopter to help dry the fields at Cadwell Park for the State Amateur Baseball Tournament after heavy rains..

Mitchell Township resident, Sonja Vanerdewyk, discussed issues with SD Canvassing and election returns.

Corn Palace Director Doug Greenway stated the Corn Palace Festival will be held on August 23-27, 2023 and concert tickets and wristband tickets are now on sale.

**BOARD OF ADJUSTMENT:**

Moved by Barington, seconded by McCardle, for the City Council to recess and sit as the Board of Adjustment. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

It was advised that this is the date and time set for hearing on the application of Latrice Franklin for a conditional use permit to operate a family residential daycare located at 1522 Pebble Beach Road, legally described as Lot 27, Block 4, Lakeview First 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 McCardle, seconded by Sabers, to approve said application. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

It was advised that this is the date and time set for hearing on the application of Bobbie Sperlich for a conditional use permit to operate a family residential daycare located at 2040 West 23rd Avenue, legally described as the East 100' of Lot B in the SE ¼ of Section 8, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota. The property is zoned R4 High Density Residential District. The Planning Commission recommended approval of said application. Moved by Smith, seconded by Barington, to approve said application. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

It was advised that this is the date and time set for hearing on the application of CJG Properties LLC for a variance for an accessory building in the front yard and a front yard variance of 6' vs 25' located at 1821 West 8th Avenue, legally described as Lots 5 & 6, Block 3, Home Park Original Addition, Davison County, South Dakota. The property is zoned R4 High Density Residential District. The Planning Commission recommended denial of said application. Moved by Sabers, seconded by Goldammer, to approve said application. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Tjarks. Members present voting nay: Smith. Motion carried.

Moved by McCardle, seconded by Barington, to set date for August 21, 2023 on the application of Rodney & Mardi Deinert for a side yard corner variance of 8" vs 20' to rebuild a garage in the same place that was struck by a vehicle and had to be demolished located at 401 South Wisconsin Street, legally described as Lot 1, Block 20, Railroad Addition, City of Mitchell, Davison County, South Dakota. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by McCardle, seconded by Goldammer, to set date for August 21, 2023 on the application of Bradley Bauer for a conditional use permit to operate a home occupation-gun repair shop located at 189 South Harmon Drive, legally described as Lot 95, Indianhead Addition, City of Mitchell, Davison County, South Dakota. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Barington, seconded by Goldammer, for the Board of Adjustment to adjourn and the City Council to reconvene in regular session. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

**AWARD BID:**

Bids were opened and read on Golf Course Improvements Rebid Project #2023-02R on the 1st day of August, 2023. Moved by Sabers, seconded by Barington, to award, as follows:

**GOLF COURSE IMPROVEMENTS**
**PROJECT #2023-02R**

Duininck Inc., 408 6th Street, Prinsburg, MN 56281

| | |
|---|---|
| Base Bid | $680,300.00 |
| Alt #1 | ($10,000.00) |

Members present voting aye: Barington, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: Bathke, Doescher. Motion carried.

**CONSIDER APPROVAL:**

Moved by McCardle, seconded by Goldammer, to approve the Special Event Permit for South Dakota State Disc Golf Tournament on Friday, September 22 through Sunday, September 24, 2023. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Smith, seconded by Barington, to approve the Kongo Klub for a new Vehicle for Hire License. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Goldammer, seconded by Tjarks, to approve Richard's Reliable Rides for a new Vehicle for Hire License. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Sabers, seconded by Bathke, to approve GF&P grant application for a gun range. The grant would cover approximately 60% of the cost or $800,000.00. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Goldammer, seconded by Barington, to approve an electrical easement with Northwestern Energy to provide electrical service to the Depot property. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Sabers, seconded by Barington, to approve Agreement #A2023-27, Easement Agreement with Bradley Theme LLC relating to the area of grass between the 5th & Main parking lot and 514 North Main Street. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by McCardle, seconded by Smith, to approve Agreement #A2023-28, Addendum to the 2023-2025 Bargaining Agreement between the City of Mitchell and AFSCME Local 2922 for 2024 Wages. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Barington, seconded by Goldammer, to approve Agreement #A2023-29, Addendum to the 2023-2025 Bargaining Agreement between the City of Mitchell and IAFF Local 4166 for 2024 Wages. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by McCardle, seconded by Sabers, to approve Agreement #A2023-30, Addendum to the 2023-2025 Bargaining Agreement between the City of Mitchell and Teamsters Local No. 120 for 2024 Wages. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Goldammer, seconded by McCardle, to approve Agreement #A2023-31, Developers Agreement for MLC Addition-Phase IV. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Smith, seconded by Goldammer, to approve Agreement #A2023-32, Temporary Easement Agreement No. 1 with SDDOT Highway #37 Project #2021-45. The city will be compensated $16,191.37 per the agreement. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by McCardle, seconded by Barington, to approve Agreement #A2023-33, Personal Property Relocation Assistant Agreement, Option B, with SDDOT Highway #37 Project #2021-45. The city will be compensated $15,922.00 per the agreement. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Barington, seconded by McCardle, to approve permanent easements No. 1 and No. 2 with SDDOT for Highway #37 Project #2021-45. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by Goldammer, seconded by Barington, to approve release easements with SDDOT for Highway #37 Project #2021-45. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Moved by McCardle, seconded by Barington, to approve proceeding with the drawdown construction on Lake Mitchell up to the budget estimate of $3,500,000 with funding to come from the Lake Fund & General Fund designated reserves. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

**RESOLUTIONS:**

Moved by Smith, seconded by Barington, to approve Resolution #R2023-53A, Amending the Election Date and Financed Amount listed in Resolution #R2023-53. Members present voting aye: Barington, Smith, Tjarks. Members present voting nay: Bathke, Doescher, Goldammer, McCardle, Sabers. Motion failed.

Moved by Smith, seconded by McCardle, to approve Resolution #R2023-54, Establishing Boundaries for a Proposed Business Improvement District and Setting Initial Terms for BID Board Members, as follows:

**RESOLUTION NO. R2023-54**

A RESOLUTION ESTABLISHING BOUNDARIES FOR A PROPOSED BUSINESS IMPROVEMENT DISTRICT AND SETTING INITIAL TERMS FOR BID BOARD MEMBERS

**WHEREAS**, the City Council for the City of Mitchell, SD believes that its past use of hotel, motel, and lodging establishment business improvement districts has been highly beneficial to the community; and

**WHEREAS**, the City Council believes that there are improvements that can be made to how the past hotel, motel, and lodging establishment business improvement districts were structured, implemented, and maintained; and

**WHEREAS**, the City Council believes that the most effective way to make such improvements is to create and codify a new hotel, motel, and lodging establishment business improvement district and terminate the prior hotel, motel, and lodging establishment business improvement districts by separate actions; and

**WHEREAS**, the first step in taking such action under SDCL 9-55 is to establish proposed boundaries and appoint a Business Improvement District Board; and

**WHEREAS**, the method of raising revenue which will ultimately be recommended and adopted shall be fair and equitable as required by law;

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Mitchell, SD that:

Section 1. The boundaries of the proposed Business Improvement District are hereby established as:

> That property within the City boundaries which is zoned and used for hotel, motel, or lodging establishment excluding any hotel, motel, or lodging establishment with less than 28 rooms, unless the hotel or motel elects to be included within the district. (An initial list of the qualifying properties shall be maintained by the Finance Officer).

Section 2. There is hereby created a Business Improvement Board which shall have the powers established in SDCL 9-55-5 and 9-55-6. The Board shall be appointed by the Mayor with the approval of the City Council.

Section 3. The Board shall consist of 5 members whose initial terms shall be staggered so that 2 members serve for 1 year, 2 members serve for 2 years, and 1 member serves for 3 years. After the expiration of such initial terms, all subsequent appointments shall be for 3 years. Initial terms shall begin on January 1, 2023. However, the first Board members appointed shall serve from the date of appointment to December 31, 2022 in addition to their initial term.

Section 4. The initial appointments to the board shall be as follows:

| | | |
|---|---|---|
| Andy Chaudhari, *Thunderbird Lodge* | - | 3 year initial term |
| Sam Chaudhari, *Quality Inn* | - | 2 year initial term |
| Jason Bradley | - | 2 year initial term |
| Austen Iverson, *Corn Palace Inn* | - | 1 year initial term |
| Tim Smith | - | 1 year initial term |

Section 5. The Board shall make recommendations to the City Council for the establishment of a plan or plans for improvements in the business area.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by McCardle, to approve Resolution #R2023-56, Amending City of Mitchell Water & Sewer Rates & Fees to Fund Current and Future Infrastructure Improvement Projects by Implementing a Surcharge, as follows:

**Resolution #R2023-56**

**A RESOLUTION AMENDING CITY OF MITCHELL WATER & SEWER RATES & FEES TO FUND CURRENT AND FUTURE INFRASTRUCTURE IMPROVEMENT PROJECTS**

**WHEREAS**, the City of Mitchell has been involved in a comprehensive infrastructure planning process,

**WHEREAS**, many of these projects will include state revolving loan financing that the city will be obligated to repay through rates,

**WHEREAS**, these improvements are necessary to meet expected demands of current customers in the next 5-10 years, as well as any future demands from growth and development within the City of Mitchell;

**WHEREAS**, the Mitchell City Council asked that rates be set with quarterly increases until they reach the necessarily level in 2027 to fund the projected increases required for planned improvements in order to make the increases more gradual for residents;

**THEREFORE, BE IT RESOLVED**, by the City Council of the City of Mitchell, SD that effective August 7, 2023 rates be amended to include the surcharge as listed below for DWSRF-06, Ground Storage Tank Project.

**Water Rates**

| | | ***Current Rate*** |
|---|---|---|
| *Base Rate* | *1" and less* | *$ 13.00* |
| | *1 1/2"* | *$ 26.00* |
| | *2"* | *$ 41.60* |
| | *3"* | *$ 78.00* |
| | *4"* | *$ 130.00* |

| | | |
|---|---|---|
| | *6"* | *$ 260.00* |
| *Water Usage* | | *$ 5.10* |

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

| | | |
|---|---|---|
| $1.78/month/user | DWSRF- 02 | Water Storage Tank |
| $.85/month/user | DWSRF-05 | West Water Tower Repairs |
| $10.30/month/user | DWSRF-06 | Ground Storage Tank Project |

**Sewer Rates**

| | | ***Current*** |
|---|---|---|
| ***Residential*** | ***Base*** | ***$ 29.05*** |
| | ***Volume*** | ***$ 4.00*** |
| ***Non Residential*** | ***Base*** | ***$ 29.05*** |
| | ***Volume*** | ***$ 5.00*** |
| ***Industrial*** | ***Base*** | ***$ 29.05*** |
| | ***Volume*** | ***$ 3.98*** |
| | ***BOD*** | ***$ 0.88*** |
| | ***TSS*** | ***$ 1.29*** |
| | ***TKN*** | ***$ 4.80*** |

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

| | | |
|---|---|---|
| $8.05/month/user | CW-05 | Sanborn Phase II |
| $3.70/month/user | CW-06 | East Central Drainage Phase I |
| $.99/month/user | CW-07 | East Central Drainage Phase II |
| $1.11/month/ user | CW-08 | Daily Drive Lift Station |
| $11.60/month/user | CW-09 | Waste Water Treatment Plant Improvements Phase I |
| $.77/month user | CW-12 | Livesay Improvements |

**IT IS FURTHER RESOLVED** by the City Council of the City of Mitchell, SD that the following rate increases be implemented at the dates listed below in 2024 in order to facilitate water & waste water improvements within the City of Mitchell:

**Water Rates**

| 2024 Water Rate & Effective Date | | 1/1/2024 | 4/1/2024 | 7/1/2024 | 10/1/2024 |
|---|---|---|---|---|---|
| Base Rate | 1" and less | $ 13.94 | $ 14.88 | $ 15.82 | $ 16.75 |
| | 1 1/2" | $ 27.87 | $ 29.74 | $ 31.62 | $ 33.50 |
| | 2" | $ 44.60 | $ 47.60 | $ 50.60 | $ 53.60 |
| | 3" | $ 83.62 | $ 89.24 | $ 94.87 | $ 100.50 |
| | 4" | $ 139.37 | $ 148.74 | $ 158.12 | $ 167.50 |
| | 6" | $ 278.75 | $ 297.50 | $ 416.25 | $ 335.00 |
| Water Usage | | $ 6.48 | $ 6.48 | $ 6.48 | $ 6.48 |

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

| | | |
|---|---|---|
| $1.78/month/user | DSWRF- 02 | Water Storage Tank |
| $.85/month/user | DSWRF-05 | West Water Tower Repairs |
| $10.30/month/user | DWSRF-06 | Ground Storage Tank Project |

**Sewer Rates**

| 2024 Sewer Rate & Effective Date | | 1/1/2024 | 4/1/2024 | 7/1/2024 | 10/1/2024 |
|---|---|---|---|---|---|
| Residential | Base | $ 29.45 | $ 29.85 | $ 30.25 | $ 30.65 |
| | Volume | $ 4.05 | $ 4.10 | $ 4.16 | $ 4.22 |
| Non Residential | Base | $ 29.45 | $ 29.85 | $ 30.25 | $ 30.65 |
| | Volume | $ 5.06 | $ 5.13 | $ 5.20 | $ 5.27 |
| Industrial | Base | $ 29.45 | $ 29.85 | $ 30.25 | $ 30.65 |
| | Volume | $ 4.03 | $ 4.08 | $ 4.14 | $ 4.20 |
| | BOD | $ 0.89 | $ 0.90 | $ 0.91 | $ 0.92 |
| | TSS | $ 1.30 | $ 1.32 | $ 1.34 | $ 1.36 |
| | TKN | $ 4.86 | $ 4.92 | $ 4.99 | $ 5.06 |

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

| | | |
|---|---|---|
| $8.05/month/user | CW-05 | Sanborn Phase II |
| $3.70/month/user | CW-06 | East Central Drainage Phase I |
| $.99/month/user | CW-07 | East Central Drainage Phase II |
| $1.11/month/ user | CW-08 | Daily Drive Lift Station |
| $11.60/month/user | CW-09 | Waste Water Treatment Plant Improvements Phase I |
| $.77/month user | CW-12 | Livesay Improvements |

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Bathke, to approve Resolution #R2023-58, A Resolution Giving Approval to Certain Drinking Water Facilities Improvements; Giving Approval to the Issuance and Sale of a Revenue Bond to Finance, Directly or Indirectly, the Improvements to the Facilities; Approving the Form of the Loan Agreement and the Revenue Bond and Pledging Project Revenues and Collateral to Secure the Payment of the Revenue Bond; and Creating Special Funds and Accounts for the Administration of Funds for Operation of the System and Retirement of the Revenue Bond and Providing for a Segregated Special Charge or Surcharge for the Payment of the Bonds, as follows:

**RESOLUTION NO. R2023-58**

**RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING PROJECT REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.**

**WHEREAS**, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system of waterworks for the purpose of providing water and water supply for domestic, municipal, together with extensions, additions, and necessary appurtenances; and,

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

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

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

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

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

**SECTION 1. <u>Definitions.</u>** The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

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

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

**"Project"** means the City of Mitchell Water System Improvements Project.

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

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

**SECTION 2. <u>Declaration of Necessity and Findings.</u>**

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

**2.2. <u>Findings</u>**. The City does hereby find as follows:

**2.2.1.** The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law.

**2.2.2.** Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

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

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

**3.1. Authorization of Loan.** The City hereby determines and declares it necessary to finance up to $16,000,000 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the City. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

**3.2. Approval of Loan Agreement.** The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is on file with the City Finance Officer (the "Finance Officer") and open to public inspection, between the City as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

**3.3. Approval of Revenue Bond.** The issuance of a revenue bond in a principal amount not to exceed $16,000,000 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

**3.4. Pledge of Revenues.** The Revenue Bond together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the Project, and depreciation, and the Rate Resolution shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

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

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

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

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

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

**SECTION 5. Additional Bonds.** As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System or Project may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

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

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

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

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

**6.4.** **<u>Project Surplus Account</u>.** There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Common Council shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

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

(a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;

(b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:

(c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or

(d) To be used for any other authorized municipal purpose designated by the Common Council.

(e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

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

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

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

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

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

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

**10.3.** The City covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal, interest and Administrative Surcharge on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.

**10.4.** The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

**SECTION 11. <u>Depositories</u>.** The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

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

**SECTION 13. Severability**. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

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

**SECTION 15. Authorization of City Officials**. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

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

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by McCardle, to approve Resolution #R2023-59, Declaring Real Property Surplus, Appointing Appraisal Board, and Authorizing Auction, as follows:

**RESOLUTION #R2023-59**

A RESOLUTION DECLARING CERTAIN REAL PROPERTY ADJACENT TO LAKE MITCHELL TO BE SURPLUS, APPOINTING A BOARD TO CONDUCT AN APPRAISAL, AND AUTHORIZING THE SALE OF SUCH PROPERTY PURSUANT TO STATE LAW

WHEREAS the City of Mitchell is the owner of seven parcels adjacent to Lake Mitchell which are legally described as:

> **Lots 35 and 35A, Sunset Point Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and
>
> **Lots 31, 31A, 32, and 32A, Sunset Point Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and
>
> **Lots 22 and 22A, Sunset Point Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and

**Lots 11, 12, and the East ½ of Lot 13, Sunset Point Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and

**Lots 27, 27A, 28, and 28A, Indian Head Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and

**Lots 80 and 81, except Lot 81-A, Indian Head Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota**; and

**Lots 99 and 100-A, Indian Head Subdivision, Lake Mitchell Development Plan, City of Mitchell, Davison County, South Dakota.**

WHEREAS the City desires to sell the above described parcels of real property; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City hereby determines that the seven above described parcels of real property are no longer necessary, useful, or suitable for the purpose for which it was acquired.

IT IS FURTHER RESOLVED, that such property shall be appraised pursuant to state law by a three person board consisting of Cory Aadland, Kevin Ball, and Jamie Hajek, who are all residents of the City of Mitchell.

IT IS FURTHER RESOLVED, that the real property shall be sold pursuant to public auction and that the Mayor is hereby authorized to negotiate and sign a real estate auction listing agreement, and any supplemental documentation necessary to accomplish those purposes, with Dean Edwards Real Estate and Auction. Such auction shall be scheduled, noticed, and conducted in accordance with state law and the acceptance or rejection of any bids therefrom shall be subject to the final approval of the City Council.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Bathke, to approve Resolution #R2023-60, SHPO Findings in Relation to the Property at 101 South Main Street, as follows:

**RESOLUTION #R2023-60**

A RESOLUTION REGARDING SDCL SECTION 1-19A-11.1 FINDINGS
IN RELATION TO THE PROPERTY AT 101 S Main St

WHEREAS, John and Diane Adamo are the owners of certain real property at 101 South Main Street which is legally described as:

**Lots 1 and 2, Block 18; Original Plat of Town (now City) of Mitchell, Davison County, South Dakota.**

WHEREAS the above described property is listed on the National Register of Historic Places.

WHEREAS WeCare Ministries sought a building permit for the property on June 10, 2023.

WHEREAS state law puts certain processes in place which must be followed prior to any governmental action that may damage, destroy, or encroach upon any historic property.

WHEREAS, in consideration of such laws, the City of Mitchell did provide preliminary notice on of the status of the property, reports of its condition, and eventually proposed project of WeCare Ministries planned to the State Historic Preservation Office (SHPO) received on July 10, 2023. The proposed project consists of restoring and replacing the red glass façade to the exterior north and east sides of the building. The glass on the east end is missing and the glass on the north side is failing and missing. The applicant has indicated that this would be total replacement as the adhesion of the glass has deteriorated to the extent that it is no longer holding the glass and a fair amount of panels are missing. The applicant searched for several restorage salvage material companies for matches to the existing historic paneling but found that there was not enough red glass material available. The applicant will use alucobond axcent aluminum paneling. The new panels will match the historic panels in size, shape and color.

WHEREAS on July 27, 2023 SHPO issued its final determination that the proposed project will remove historic character defining material from the building and the proposal will encroach upon, damage, or destroy a historic property which is included in the National and State Registers of Historic Places. However, it appears that there are no feasible and prudent alternatives to the proposal and the proposal includes all possible planning to minimize harm to the historic resource.

WHEREAS SDCL 1-19A-11.1 requires in this case that the City make a written determination that "based upon the consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that all possible planning to minimize harm to the historic property has been considered."

WHEREAS such a hearing by the City Council was scheduled, noticed, and held on August 7, 2023 during regular session and that at such hearing interested parties were afforded an opportunity to comment on the matter and the City Council did consider and discuss relevant facts relating to such demolition plan.

**NOW THEREFORE**, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City Council does hereby make the following findings of fact and conclusions:

1. The above described property is listed on the National Register of Historic Places.

2. The City of Mitchell, did submit a notice and supplemental materials as required by state law and as requested by the State Historic Preservation Office.

3. The City Council, in its capacity as the governing body designated to make a final determination of project acceptability under SDCL 1-19A-11.1, must determine that, "based upon the consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that all possible planning to minimize harm to the historic property has been considered."

4. The City Council has taken into consideration all relevant factors including all testimony provided at the above described hearing, all documentation provided at or for use in such hearing, and specifically, the following materials:

   Navin Apts-101 S Main St-Proposal
   Navin Apts-101 S Main St-GIS and Photo
   Navin Apts-101 S Main St-Alucobod Product Brochure
   Navin Apts-101 S Main St-ERC Review Response Letter
   Navin Apts-101 S Main St-Flow Chart

5. That in recognition of these findings and conclusions, the State Office of History shall be provided with notice of this determination by certified mail, to include a complete record of factors considered.

6. That after ten days from sending such notice, compliance with SDCL 1-19A-11.1 shall no longer serve as an impediment to carrying out the proposed demolition plan.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and resolution declared duly adopted.

**EXECUTIVE SESSION:**

Moved by McCardle, seconded by Bathke, to go into Executive Session as permitted by SDCL 1-25-2(3) Legal and SDCL 1-25-2(4) Negotiations. Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

Mayor Everson declared the board out of executive session at 9:16 p.m. and the City Council to reconvene in regular session at 9:17 p.m.

**ADJOURN:**

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

Michelle Bathke

Michelle Bathke
Finance Officer

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