

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

**December 18, 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

AGENDA:

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

- a. City Council Minutes
 - 1. City Council December 4, 2023.
- b. Committee Reports
 - 1. Planning Commission November 27, 2023 and
 - 2. Planning Commission December 11, 2023 (unsigned).
- c. Department Reports
 - 1. Sales Tax Collections (November),
 - 2. Finance (November),
 - 3. Building Permits (November),
 - 4. Fire (November),
 - 5. Code Enforcement (November),
 - 6. Water (November), and
 - 7. Airport (November).
- c. Automatic Supplements
 - 1. Park-Sports Complex in the amount of \$273.54 from a donation of funds,
 - 2. General Fund-Library in the amount of \$1,593.10 from a reimbursement,
 - 3. EMS Fund in the amount of \$2,770.95 from insurance proceeds,
 - 4. TID #7-Westwood in the amount of \$140,000.00 from tax revenue,
 - 5. TID #9-Vantage Point in the amount of \$7,000.00 from tax revenue,
 - 6. TID #14-Pepsi in the amount of \$3,000.00 from tax revenue,
 - 7. TID #16-Innovative in the amount of \$142,000.00 from tax revenue,
 - 8. TID #20-Morris in the amount of \$1,000.00 from tax revenue,
 - 9. TID #21-Hohn in the amount of \$2,000.00 from tax revenue,
 - 10. TID #24-Performance Pet in the amount of \$42,000.00 from tax revenue,
 - 11. TID #26-Western Building in the amount of \$5,000.00 from tax revenue,

12. TID #27-Fiala in the amount of \$3,000.00 from tax revenue,
 13. Park-Rec Center in the amount of \$1,000.00 from grant funds,
 14. Park-Rec Center in the amount of \$3,794.00 from grant funds, and
 15. Park-Rec Center in the amount of \$319.00 from grant funds.
- e. Raffle Permits
1. VFW with the drawings to be held in April 2024,
 2. VFW with the drawing to be held on June 20, 2024, and
 3. Pheasants Forever with the drawing to be held January 20, 2024.
- f. Change Order #2 for Sidewalk Project Schedule A #2023-04 increasing the contract amount by \$7,187.00 to Top Grade Concrete, adjust contract amount to \$162,141.14.
- g. Change Order #2 for Paving & Overlay Project #2023-15 increasing the contract amount by \$7,500.00 to Commercial Asphalt, adjust contract amount to \$634,426.40.
- h. Approval of Gas and Fuel Quotations

<u>Howe's Oil</u>	<u>Requested Gallons</u>	<u>Bid Gallons</u>	<u>Price per Product</u>	<u>Total Bid</u>
On Road Diesel #2	1,800	1,800	\$2.90	\$5,220.00
On Road Diesel #1	1,800	1,800	\$3.2575	\$5,863.50
Off Road Diesel #2	1,950	1,950	\$2.625	\$5,118.75
Off Road Diesel #1	1,950	1,950	\$2.9825	\$5,815.88

Total Bid: \$22,018.13

<u>Howe's Oil</u>	<u>Requested Gallons</u>	<u>Bid Gallons</u>	<u>Price per Product</u>	<u>Total Bid</u>
Unleaded Gas-10% Ethanol	7,500	7,500	\$2.138	\$16,035.00

Total Bid: \$16,035.00

- i. Pay Estimates December 18, 2023
- Pay Estimate #3 in the amount of \$8,666.66 for Mitchell Airport Snow Removal #2019-53R2 contracted to Quality Cut Lawn & Snow,
- Pay Estimate #7 in the amount of \$385,311.92 for Above Ground Storage Tank #2020-20 contracted to Rice Lake West,
- Pay Estimate #3 in the amount of \$6,043.85 for Norway/Rowley Bike Path #2021-01 contracted to SD Department of Transportation,
- Pay Estimate #20 in the amount of \$3,627.20 for Lake Mitchell-Phase II #2021-20 contracted to Barr Engineering,
- Pay Estimate #18 in the amount of \$455,592.60 for North Wastewater Improvements #2021-31 contracted to PKG Contracting,
- Pay Estimate #6 in the amount of \$277.50 for 3rd & Main Streetscape #2022-26 contracted to McLaury Engineering,
- Pay Estimate #9 in the amount of \$9,597.50 for Jetty & Marina Bike Trail #2023-03 contracted to Brosz Engineering,

Pay Estimate #1 in the amount of \$19,000.00 for Jetty & Marina Bike Trail #2023-03 contracted to Shive Hattery,

Pay Estimate #5 in the amount of \$7,187.00 for Concrete Bid #2023-04 contracted to Top Grade Concrete,

Pay Estimate #5 in the amount of \$7,500.00 for Paving & Overlay #2023-15 contracted to Commercial Asphalt,

Pay Estimate #5 in the amount of \$13,108.75 for 2nd/4th & Main Street #2023-21 contracted to McLaury Engineering, and

Pay Estimate #29 in the amount of \$3,719.63 for AIP '28 Airport ALP/Master Plan contracted to Helms & Associates.

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

PAYROLL NOVEMBER 26, 2023 – DECEMBER 9, 2023: City Council \$3,615.68, Mayor \$1,562.81, City Administrator \$5,942.50, Administrative Boards \$2,211.81, Attorney \$4,938.27, Finance \$13,609.22, Human Resources \$3,982.71, Municipal Building \$3,412.17, Information Technology \$3,053.21, Police \$74,090.61, Traffic \$4,890.42, Fire \$39,009.79, Street \$31,578.81, Public Works \$23,928.49, Cemetery \$5,083.57, Library \$17,948.79, Recreation & Aquatics \$7,018.69, Recreation Center \$19,563.03, Sports Complexes \$11,302.13, Parks \$12,868.92, Supervision \$6,081.70, E911 \$20,171.34, MVP \$536.27, Palace Transit \$30,345.90, JVCC \$1,340.26, Nutrition \$4,335.17, Water Distribution \$15,217.38, Sewer \$13,210.08, Airport \$3,485.19, Recycling Program \$6,944.36, Waste Collection \$6,227.65, Landfill \$10,219.44, Corn Palace \$22,480.33, Golf Course \$4,123.06, Emergency Medical Services \$34,906.88

NEW HIRES:

CORN PALACE: Grace Baysinger-\$10.80, Taylor Senn-\$11.30

RECREATION CENTER: Brenna Beckman-\$13.30, Kimberly Gamber-\$10.80

WASTE WATER: Joseph King-\$20.304

SALARY ADJUSTMENTS:

AIRPORT: Michael Scherschlight-\$36.304

POLICE: Seth Vanden Hoek-\$28.343, Austin Van Horn-\$28.689

RECREATION CENTER: Kasseddy Knippling-\$11.30, Morgan Schneider-\$13.30, Gary Walton-\$26.014

STREET: Jeffrey Hurt-\$26.994

TERMINATIONS:

WASTEWATER: Jon Rehfeldt

WARRANTS: 3D Security, Monitoring-\$600.00; A-Ox Welding Supply, Supplies-\$502.16; AAA Collections, Collection Fee-\$74.49; AAA Lawn Care and Maintenance, Nuisance-\$1,430.00; Advance Auto Parts, Supplies-\$53.34; Advanced Engineering and Environmental Services, Study and Report 2021-37-\$570.00; AFLAC, Aflac Withholding-\$10,548.72; AFLAC Group, Critical Care-\$460.78; AFSCME Council 65, Union Dues-\$655.20; Amazon Capital Services, Supplies-\$541.40; American Garage Door, Supplies-\$191.16; Aqua-Pure, Supplies-\$1,687.50; Aramark, Supplies-\$188.88; AT&T Mobility, Utilities-\$580.38; ATV Holdings, LLC DBA Mitchell Telecom, Utilities-\$2,882.49; Avera Queen of Peace Hospital, Supplies-\$554.16; Axon Enterprise, Supplies-\$21,383.90; B-Y Water District, Usage-\$52,485.33; Bailey Metal Fabricators, Supplies-\$1,101.55; Barr Engineering, 2021-20 P.E. #PH2-20-\$3,627.20; Bender's Sewer Cleaning, Repair-\$2,010.00; Big Daddy D's, Contract Services-\$6,875.06; Blackburn Manufacturing, Supplies-\$170.14; Blackstone Publishing, Audiobooks-\$67.99; Blackstrap, Supplies-\$2,010.35; Brendan J Poore, Reimbursement-\$149.99; Brosz Engineering, 2023-3 P.E. #10-\$9,597.50; Buhl's Drycleaners & Linen, Maintenance-\$82.50; Butler Machinery, Supplies-\$85.00; C&B Operations, Supplies-\$3,920.25; Cadwell Sanford Deibert & Garry, Indoor Pool/Puetz-\$264.00; Carquest Auto Parts, Supplies-\$16.29; Cengage Learning Inc/Gale, Book-\$26.39; Center Point Large Print, Books-\$94.08; Century Link, Utilities-\$68.04; CHS Farmers Alliance, Supplies-\$5,203.98; Cindy Roth, Notary Fee Reimbursement-\$30.00; City of Mitchell, Utilities-\$25,342.00; City of Mitchell, Utilities-\$1,289.86; City of Mitchell, Utilities-\$1,860.16; City of Mitchell, Utilities-\$10.50; CK Bicycles & Locks, Supplies-\$69.00; Clark Equipment, Equipment-\$6,714.00; Coborns, Contract Services-\$385.00; Commercial Asphalt, Supplies-\$53,410.00; Core & Main, Supplies-\$16,003.30; Core-Mark Midcontinent, Supplies-\$2,457.85; Corporate Translation Service, Translation Services-\$143.20; County Fair, Contract Services-\$1,325.50; Dakota Fluid Power, Supplies-\$3,340.40; Dakota Supply Group, Supplies-\$363.52; Darrel & Janet Tiede, Refund Bus Trip-\$100.00; Darrington Water Conditioning, Rental-\$68.25; Davison Rural Water Systems, Utilities-\$89.25; Delta Dental Plan of South Dakota, Dental Insurance-\$15,674.52; Demco, Supplies-\$364.93; Department of Agriculture, Solid Waste Surcharge-\$2,670.88; Department of Social Services, Child Support-\$864.46; Dice Benefits Consulting, Administration Fee-\$510.00; Dick's Body Shop, Maintenance-\$155.00; Doug's Custom Paint & Body, Repairs-\$3,770.95; Elfstrand's Ace Hardware, Supplies-\$234.97; Eurofins Environment Testing, Lab Fees-\$2,446.00; Fedex, Postage-\$16.93; Foreman Charters, Fundraising-\$1,150.00; Forum Communications, Advertising-\$2,405.63; Gala Flores, Reimbursement-\$35.00; Grainger, Supplies-\$123.97; Great Western Tire, Supplies-\$4,288.93; Guardian Alliance Technology, Background Reports-\$150.00; H&H Electric & Motor Rep, Supplies-\$796.50; Helms and Associates, AIP '28 Airport P.E. #29-\$3,719.63; Henry Schein, Supplies-\$351.60; Honda of Mitchell, Supplies-\$29.12; Howes Oil, Supplies-\$22,035.77; ICAN, Advertising-\$750.00; Ingram Library Services, Books-\$3,000.50; Innovative Systems, Reimbursement TID #16-\$141,862.86; Interstate Office Products, Supplies-\$323.06; JCL Solutions, Supplies-\$85.90; Johnson Bros of South Dakota, Supplies-\$775.00; Johnson Controls, Maintenance-\$20,215.08; Jones Supplies, Supplies-\$609.63; Judd Hoos & Funk Productions, Pre-Sturgis Party Deposit-\$2,000.00; Kevin Nelson, Reimbursement-\$75.01; Kim Burg, Bus

Trip Meals Reimbursement-\$9.74; Krohmer Plumbing, Repair-\$88.78; Lakeview Veterinary Clinic, Management-\$927.57; Larry's I-90 Service, Supplies-\$1,629.68; Lawson Products, Supplies-\$99.40; Leighton Family Farms, Supplies-\$700.00; McLaury Engineering, 2022-26 P.E. #6-\$13,386.25; McLeod's Printing, Supplies-\$349.79; Menard's, Supplies-\$1,363.24; Michael Dufek, Reimbursed-\$96.05; Michelle Bathke, Reimbursement-\$191.68; Midwest Fire & Safety, Inspection-\$150.00; Midwest Oil, Supplies-\$1,309.07; Mike Carpentier DbA Carpentier Snow Removal, CDL Testing-\$90.00; Miscellaneous Vendor, Presentation Sisters Refund-\$137.40; Mitchell Animal Rescue, Management Fee-\$350.00; Mitchell Area Development, Vantage Point TID #9/23-\$107,161.44; Mitchell Convention & Visitors Bureau, December 2023 Funding-\$21,200.00; Mitchell Iron & Supply, Supplies-\$125.75; Mitchell United Way, United Way Deductions-\$228.00; Mount Vernon School District, Contract Services-\$145.50; Muth Electric, Maintenance-\$13,119.48; N-Able Technologies, Software-\$172.77; Newman Signs, Supplies-\$1,317.99; Noridian Medicare JF Part, Refunds and Reimbursements-\$1,886.69; Northwestern Energy, Utilities-\$55,178.75; Overdrive, Ebooks-\$831.42; Overtime, Contract Services-\$2,722.50; Papa Murphy's Pizza, Pizzas-\$313.14; Parkeon, Professional Service-\$65.00; Paulson Sheet Metal, Maintenance-\$700.00; Peterbilt of Sioux Falls, Supplies-\$652.63; Pfeifer Implement, Maintenance-\$4.20; PKG Contracting, 2021-31 P.E. #18-\$455,592.60; Porter Distributing, Supplies-\$66.45; Premier Equipment, Supplies-\$68.50; Premier Pest Control, Supplies-\$375.00; Prevention Magazine, Subscription-\$160.00; Public Health Laboratory, Testing-\$1,712.00; Qualified Presort, Postage-\$310.09; Quality Cut Lawn & Tree Service, 2019-53R2 P.E. #3-2023-\$8,666.66; Quick Med Claims, Monthly Charges-\$5,007.52; Rice Lake West, 2020-20 P.E. #7-\$385,311.92; Ron's Saw Sales, Supplies-\$3,088.31; Runnings Supply, Supplies-\$464.16; Ryan Erickson, Reimbursed-\$229.97; S&M Printing, Supplies-\$135.15; Santel Communications, Utilities-\$30.00; Schoenfelder Portables, Rental-\$420.00; Scholastic Library Publish, Book-\$10.79; South Dakota Department of Transportation, 2021-1 P.E. #3-\$6,043.85; South Dakota Retirement System, South Dakota Retirement Contributions-\$126,441.94; South Dakota Supplemental Retirement, Supplemental Retirement-\$2,634.50; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,271.00; Sherwin-Williams, Supplies-\$79.25; Shive-Hattery, 2023-3 P.E. #1-\$19,000.00; Sign Pro, Supplies-\$58.75; South Dakota 811, Message Fees-\$219.45; Standard Insurance, Life Insurance-\$2,601.78; Staples, Supplies-\$430.30; Storey Kenworthy/Matt Parr, Tax Forms-\$437.95; Sturdevants Auto Value, Supplies-\$6,022.57; Subway, Meals-\$31.96; Sun Gold Sports, Supplies-\$720.50; The Dugout, Contract Services-\$1,584.00; The Penny Press Machine, Supplies-\$497.00; Thomas L Price, Screening-\$350.00; Thomson Reuters West, Subscription-\$800.80; Thune True Value & Appliance, Supplies-\$64.73; TK Electric, Supplies-\$431.44; TMA Stores, Supplies-\$1,736.48; Top Grade Concrete, 2023-4 P.E. #5-\$7,187.00; Traditions Prepared Meals, Meals-\$3,146.39; Traf-Sys, Supplies-\$240.00; Transource, Supplies-\$1,148.63; Transwest Trucks of Sioux, Supplies-\$81.96; Two Way Solutions, Supplies-\$10,105.36; UI LLC, Testing-\$4,764.00; Uline, Supplies-\$125.91; UPS Store #4227, Postage-\$501.87; Verizon Wireless, Utilities-\$756.91; Vern Eide Ford, Supplies-\$316.36; Walmart/Capital One, Supplies-\$45.92; Wheelco Brake & Supply, Supplies-\$244.84; Wholesale Electronics, Supplies-\$24.96; Zello, Service-\$1,550.40; First Dakota, TID #20 Morris-\$6188.45; Wellmark of South Dakota, Administration, Medical, Prescription-\$269,042.10; Wageworks,\$4,519.80; Ellwein Brothers, Supplies-\$57.00; South Dakota State Treasurer, Sales Tax Payment-\$16,019.69.

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

BOARD OF ADJUSTMENT:

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

It was advised that this is the date and time set for hearing on the application of Wayne Lambert for a side yard variance of 0' vs 3' and rear yard variance of 7' vs 16' for a 32' x 44' unattached accessory building with a door parallel to the alley being built in the same overall footprint of an existing garage being torn down located at 909 East 1st Avenue, legally described as Lot 4, Block 3, Applegate Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R3 Medium Density Residential District. The Planning Commission recommended denial of said application. Moved by Tjarks, seconded by Smith, to approve said application. Motion carried.

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

CONSIDER APPROVAL:

Moved by Sabers, seconded by McCardle, to approve Agreement #A2023-63, Airport Design Services for Hangar at Airport with Mead & Hunt in the amount of \$5,000.00. Motion carried.

Moved by Goldammer, seconded by Tjarks, to approve Agreement #A2023-65, GeoTechnical Exploration and Report at the South Wastewater Treatment Plant with GeoTek in an amount not to exceed \$15,000.00. Motion carried.

Moved by McCardle, seconded by Barington, to approve Agreement #A2023-66, GeoTechnical Exploration and Report at the North Wastewater Treatment Plant with GeoTek in an amount not to exceed \$14,000.00. Motion carried.

Moved by McCardle, seconded by Sabers, to approve Agreement #A2023-67, Agreement for Rotational Towing Services. Motion carried.

Moved by Sabers, seconded by Tjarks, to approve Agreement #A2023-68, 2024 Equipment and Storage Contract with Axon. Motion carried.

Moved by Goldammer, seconded by Barington, to approve Agreement #A2023-69, 2024-2025 Subscription with Power DMS. Motion carried.

Moved by McCardle, seconded by Smith, to approve Agreement #A2023-70, Memorandum of Agreement with Davison County for the Edward Byrne Memorial JAG Grant. Motion carried.

RESOLUTIONS:

Moved by Tjarks, seconded by Goldammer, to approve Resolution #R2023-89, Contingency Transfers, as follows:

RESOLUTION #R2023-89 CONTINGENCY TRANSFERS

WHEREAS, the City of Mitchell has included in the 2023 Annual Budget a contingency item which may be appropriated by resolution of the governing board to any other appropriation amount that is deemed insufficient during the year, and

WHEREAS, the budget item for the following is insufficient and it was deemed necessary that appropriation be transferred for the 2023 budget, as follows:

GENERAL FUND

HUMAN RESOURCES

101-41440-42231	Employee Physicals, Drug Testing	\$17,500
101-41440-42630	AED Replacement Program	\$2,500

MUNICIPAL BUILDINGS

101-41920-42520	Repairs- City Hall	\$12,000
101-41920-42620	Supplies- City Hall	\$2,605

POLICE

101-42110-42670	Service Dog Supply	\$10,611
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Traffic

101-42130-41110	Overtime	\$3,000
101-42130-42500	Repairs	\$2,500
101-42130-42530	Traffic Light Maintenance	\$6,000
101-42130-42540	Signs	\$2,600
101-42130-42545	Paint	\$5,450
101-42130-42600	Supplies	\$2,500
101-42130-42610	Gas, Oil, Tires	\$1,500
101-42130-43410	Battery Backup	\$1,500

STREET DEPARTMENT

101-43100-42600	Supplies	\$75,000
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SNOW REMOVAL

101-43130-42500	Repair & Maintenance	\$65,000
101-43130-42600	Supplies & Materials	\$34,000

STORM DRAINAGE		
101-43150-42600	Supplies & Materials	\$6,000
LIBRARY		
101-45500-42500	Repairs & Maintenance	\$22,000
TRANSFERS OUT		
101-49000-51119	Transfer out to indoor pool	\$429,553

Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Tjarks, to approve Resolution #R2023-90, Setting Hearing and Appointing Appraisal Board for a Land Swap by the New Ground Storage Tank, as follows:

RESOLUTION #R2023-90

A RESOLUTION SETTING A HEARING AND APPOINTING APPRAISERS FOR THE EXCHANGE OF REAL PROPERTY IN THE AREA OF THE GROUND STORAGE TANK

WHEREAS, the City of Mitchell owns a parcel of land where the ground storage tank is being constructed which land is legally defined as:

Tract 1, Mitchell Waterworks 1st Addition in the SW ¼ of the SW ¼ of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.; and

WHEREAS Mitchell Properties HL2 LLC (LLC) is the owner of certain property in the area of the ground storage tank which is legally defined as:

Southwest Quarter (SW ¼) Ex H1 & RY and Ex Tract 1, Mitchell Waterworks 1st Addition in the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

WHEREAS the City of Mitchell and LLC desire to exchange certain portions of the above-described properties; and

WHEREAS the proposed exchange would involve the City of Mitchell transferring to LLC a sum of \$10,000.00 and the portion of land described as follows:

North Two Hundred Sixty-six feet (266') of Tract 1, Mitchell Waterworks 1st Addition in the SW ¼ of the SW ¼ of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

WHEREAS the proposed exchange would involve LLC transferring to the City of Mitchell the portion of land described as follows:

That portion of the Southwest Quarter (SW ¼) lying West of RY and Ex H1 of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that, pursuant to SDCL 9-27-34.1, the following individuals shall be appointed to the appraisal board for the purpose of appraising the above-described City land to be transferred: Kevin Genzlinger, Jacob Sonne, JP Schmitz.

BE IT FURTHER RESOLVED, that the City Council shall hold a hearing relative to the above-described exchange on December 27th, 2023 at 5:00 PM in City Hall Council Chambers. Notice of hearing has been published at least 10 days in advance of the hearing in the local newspaper as required by law. Following the hearing, the City shall take such action as it deems appropriate relative to this proposed land exchange.

Motion carried and resolution declared duly adopted.

Moved by Smith, seconded by Sabers, to approve Resolution #R2023-91, Plat of Tract 1 of Blindauer's Addition in the SE ¼ of the SE ¼ of Section 18, T 104 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2023-91

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 11th day of December, 2023; and

WHEREAS, it appears from an examination of the plat of TRACT 1 OF BLINDAUER'S ADDITION IN THE SE 1/4 OF THE SE 1/4 OF SECTION 18, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, prepared by Thomas Lynn Week, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of TRACT 1 OF BLINDAUER'S ADDITION IN THE SE 1/4 OF THE SE 1/4 OF SECTION 18, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Thomas Lynn Week, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Barington, to approve Resolution #R2023-92, Surplus of Building at 620 North Lawler Street, as follows:

RESOLUTION #R2023-92

**A RESOLUTION PROVIDING FOR THE SURPLUS AND AUCTION OF THE BUILDING
AT 620 NORTH LAWLER STREET**

WHEREAS the City of Mitchell is the owner of real property at 620 North Lawler Street in Mitchell and there is currently a building built upon that lot; and

WHEREAS the City desires to remove the building as it is no longer necessary, useful, or suitable for the purpose for which it was acquired; and

WHEREAS the City intends to auction the building itself, not including any interest in the land itself, upon the conditions further provided in this resolution, and if no buyer is found for the building, then such building shall be demolished and removed.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City hereby determines that the building at 620 North Lawler Street is no longer necessary, useful, or suitable for the purpose for which it was acquired; and

IT IS FURTHER RESOLVED that such building shall be sold at auction upon such terms as the Public Works department may provide in advance of the auction. However, the auction shall be for the building itself in as is condition and no interest in the real property itself shall accrue, transfer, or otherwise vest to any successful buyer. Upon completion of the auction, the mayor and finance officer are authorized to award the building to the successful bidder by signing the terms and conditions sheet of the successful bidder; and

IT IS FURTHER RESOLVED that if at auction no buyer is found, such building shall be demolished and removed from the lot.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Sabers, to approve Resolution #R2023-93, Dissolving Business Improvement District #2, as follows:

RESOLUTION #R2023-93

A RESOLUTION DISSOLVING BUSINESS IMPROVEMENT DISTRICT 2

WHEREAS the City of Mitchell created Business Improvement District 2 (BID 2) pursuant to Ordinance #2441 in July 2013 and has subsequently renewed and modified BID 2 via Resolution #3330 (expanding boundary for indoor pool), Ordinance #2521 (increasing tax rate from \$1.00 per room/per night to \$1.50), Ordinance #2552 (extending Sports and Events

Authority portion of tax), and Ordinance O2019-13 (extending Sports and Events Authority portion of tax); and

WHEREAS the debt associated with the construction of the second sheet of ice and indoor pool has been extinguished and the only remaining purpose of BID 2 is the funding of the Sports and Events Authority for the promotion of the district; and

WHEREAS state law provides that if a district has imposed an occupation tax based on rooms rented and the occupational tax revenue was used only for the promotion of the district, a majority of the landowners may dissolve the district established by submitting a petition to the governing body requesting the district to be dissolved; and

WHEREAS the City has received such a petition from a majority of landowners within the district requesting that BID 2 be resolved effective December 31, 2023, has not entered into any new obligations or contracts relating to the district since receiving the petition, has verified that a majority of landowners have signed the petition, and has found that there are sufficient funds available to extinguish all of the debts and obligations of the district.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that BID 2 is hereby dissolved effective December 31, 2023; and

BE IT FURTHER RESOLVED that any remaining proceeds from BID 2, whether now in possession of the City or after acquired, shall be applied to the continued operation of the Sports and Events Authority.

Motion carried and resolution declared duly adopted.

Moved by Barington, seconded by Bathke, to approve Resolution #R2023-94, Acknowledging the Transfer of a Franchise Agreement from Northwestern Corporation dba Northwestern Energy to Northwestern Energy Public Service Corporation dba Northwestern Energy, as follows:

RESOLUTION #R2023-94

A RESOLUTION ACKNOWLEDGING THE TRANSFER OF A FRANCHISE AGREEMENT FROM NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY TO NORTHWESTERN ENERGY PUBLIC SERVICE CORPORATION D/B/A NORTHWESTERN ENERGY

WHEREAS, the City of Mitchell previously approved a franchise agreement with NorthWestern Corporation by ordinance on December 6, 2004 (Ordinance No. 2150); and

WHEREAS, the franchise agreement authorizes NorthWestern Corporation to erect, maintain and operate a gas distribution system within the City of Mitchell; and

WHEREAS, NorthWestern Corporation, d/b/a NorthWestern Energy, has provided notice to the City that it intends to transfer its South Dakota operations to a new entity named NorthWestern Energy Public Service Corporation, d/b/a NorthWestern Energy, which will continue operations as they currently are in the City of Mitchell; and

WHEREAS, such transfer is intended to take effect January 1, 2024; and

WHEREAS, the franchise agreement defined the Franchisee as “NorthWestern Corporation, a Delaware corporation, doing business as NorthWestern Energy, its successors and assigns,” which permits the succession or assignment of all interests in the franchise agreement from NorthWestern Corporation to NorthWestern Energy Public Service Corporation.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City acknowledges and accepts the succession or transfer of the franchise agreement approved by Ordinance No. 2150 from NorthWestern Corporation to NorthWestern Energy Public Service Corporation effective January 1, 2024.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Barington, to approve Resolution #R2023-95, Authorizing Easement Agreements for Water Distribution System Project #2020-20, as follows:

RESOLUTION #R2023-95

A RESOLUTION APPROVING PERMANENT EASEMENTS FOR THE WATER MAIN DISTRIBUTION PROJECT FOR THE CITY OF MITCHELL

WHEREAS the City of Mitchell requires permanent easements for the construction of water main in conjunction with the Water Main Distribution Project; and

WHEREAS said easements are located on real properties owned by and legally described as follows;

Mitchell Properties HL2, LLC

SW ¼ Ex Lot H1, Railroad Right-of-Way, and Tract 1 of Mitchell Waterworks 1st Addition all in Section 35-103-60 in Davison County, South Dakota (“Donor Property”).

Cabela’s Wholesale, LLC

Lot 1, Cabelas 1st Addition, City of Mitchell, Davison County, South Dakota

WHEREAS three individual perpetual easement agreements relating to the properties listed above have been prepared and presented to council on December 18th, 2023;

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City hereby approves the three individual perpetual easement agreements discussed above as presented to council.

2. The Mayor of the City of Mitchell is hereby authorized to execute and deliver such documents.

Motion carried and resolution declared duly adopted.

ORDINANCE:

Moved by Goldammer, seconded by Barington, to place Ordinance #O2023-14, Supplemental Appropriations on second reading. Motion carried. Moved by Barington, seconded by Tjarks, to adopt Ordinance #O2023-14, Supplemental Appropriations, as follows:

**ORDINANCE NO. O2023-14
SUPPLEMENTAL APPROPRIATION ORDINANCE
CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA**

BE IT ORDAINED, BY THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, that the following sums be appropriated to authorize certain expenditures and to meet certain obligations for the year 2023 according to statute:

GENERAL FUND

MAYOR'S OFFICE		
101-41210-43300	Veteran's Park	\$5,521
ADMINISTRATIVE BOARDS		
101-41230-42920	Sports Authority Promotion	\$17,000
TRAFFIC		
101-42130-42570	Repairs Traffic Accidents	\$8,278

The funding will come from the General Fund cash balance, designated cash balances, and reimbursements received.

ENTERTAINMENT TAX FUND

211-46311-43100	Land	\$180,241
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The funding will come from the Entertainment Tax Fund cash balance.

COMMUNITY SERVICES FUND

218-45150-42610	Gas Oil Tires	\$31,000
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The funding will come from the Community Services Fund cash balance.

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

EXECUTIVE SESSION:

Moved by Goldammer, seconded by McCardle, to go into Executive Session as permitted by SDCL 1-25-2(3) Legal. Motion carried.

Mayor Everson declared the board out of executive session at 7:04 p.m. and the City Council to reconvene in regular session at 7:05 p.m.

ADJOURN:

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



Michelle Bathke
Finance Officer

Published once at the approximate cost of _____.