

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

**July 5, 2022  
6:00 P.M.**

**PRESENT:** Dan Allen, Marty Barington, John Doescher, Kevin McCardle, Steve Rice,  
Dan Sabers, Jeffrey Smith, Susan Tjarks

**ABSENT:**

**PRESIDING:** Mayor Bob Everson

**APPOINT DEPARTMENT HEADS:**

Mayor Everson recommended the following three-year appointments for City Department Heads:

Michelle Bathke	Finance Officer
Doug Greenway	Corn Palace Director
Justin Johnson	City Attorney
Elizabeth Kitchens	Human Resources Director
Mike Koster	Chief of Police
Marius Laursen	Chief of Fire/EMS
Kevin Nelson	Park & Recreation Director
Jessica Pickett	Community Services Director
Joe Schroeder	Public Works Director

Moved by Tjarks, seconded by Sabers, to accept the recommendation of Mayor Everson for the three-year appointments of Department Heads. Motion carried.

Mayor Everson issued the Oath of Office to City Department Heads.

**ELECTION OF PRESIDENT AND VICE-PRESIDENT OF COUNCIL:**

Mayor Everson called for nominations for President and Vice-President of the City Council. Moved by Smith, seconded by Rice, to nominate Kevin McCardle as President. Motion carried. Moved by Smith, seconded by Rice, to nominate Dan Allen as Vice-President. Allen abstained. Motion carried.

**AGENDA:**

Mayor Everson added an executive session according to 1-25-2 (3) Legal before Item #15 on the agenda.

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

- a. City Council Minutes
  - 1. City Council June 21, 2022 and
  - 2. Special City Council June 27, 2022.
- b. Committee Reports
  - 1. Planning Commission June 13, 2022 and
  - 2. Library Board May 17, 2022.
- c. Automatic Supplement to General Fund-Fire in the amount of \$6,616.59 from grant funds.
- d. Raffle Permits
  - 1. Mitchell Ducks Unlimited with the drawing to be held on October 6, 2022.
- e. Special Event Permit for Palace City Pre-Sturgis Party on August 4, 2022.
- f. Volunteer Board Appointments
  - 1. Reappoint Whitney Kroupa to the Community Services Advisory Board for the term of July 2022-June 2025.
- g. Council Liaison & Board Positions
  - 1. Chamber of Commerce-Steve Rice
  - 2. Community Services Board-John Doescher
  - 3. Corn Palace Events & Advisory Board-Jeff Smith
  - 4. Golf & Cemetery Board-Dan Sabers
  - 5. Housing & Redevelopment Commission-John Doescher
  - 6. Library Board of Trustees-Steve Rice
  - 7. Mitchell Area Development Corporation-Jeff Smith
  - 8. Mitchell Main Street & Beyond-Susan Tjarks
  - 9. Park & Recreation Board-Marty Barington
  - 10. Planning Commission-John Doescher
  - 11. Sports & Events Authority-Kevin McCardle
- h. Change Order #1 for West Side Water Tower Schedules A, A1, & A3 Project #2021-03 increasing the contract amount by \$89,940.00 to Maguire Iron, adjust contract amount to \$444,140.00.
- i. Change Order #1 for West Side Water Tower Schedules B & B1 Project #2021-03 decreasing the contract amount by \$127,240.00 to H&W Contracting, adjust contract amount to \$547,331.00.
- j. Change Order #4 for Concrete Project Schedule A #2021-04 increasing the contract amount by \$46,394.22 to Top Grade Concrete, adjust contract amount to \$189,713.24.
- k. Approval of Gas and Fuel Quotations
 

<u>Howes Oil Company</u>	<u>Requested</u>	<u>Bid</u>	<u>Price per</u>	<u>Total Bid</u>
	<u>Gallons</u>	<u>Gallons</u>	<u>Product</u>	
On Road Diesel-#2	800	800	\$4.75	\$ 3,800.00
Unleaded Gas	6,700	6,700	\$3.864	\$25,888.80
-10% ethanol				
		<b>Total Bid:</b>		<b>\$29,688.80</b>
- l. Pay Estimates July 5, 2022
  - Pay Estimate #7 in the amount of \$124,669.15 for Ground Storage Tank #2020-20 contracted to Infrastructure Design Group,

Pay Estimate #5 in the amount of \$180,852.49 for Dailey Drive Lift Station #2020-12 contracted to H&W Excavating,  
Pay Estimate #17 in the amount of \$5,290.15 for Dailey Drive Lift Station #2020-12 contracted to SPN & Associates,  
Pay Estimate #1 in the amount of \$187,947.21 for Foster Street Bridge #2021-02 contracted to BX Civil & Construction,  
Pay Estimate #6 in the amount of \$56,028.74 for Concrete Bid-Schedule A #2021-04 contracted to Top Grade Concrete,  
Pay Estimate #12 in the amount of \$11,130.30 for 9<sup>th</sup> & 5<sup>th</sup> Reconstruction #2021-07 contracted to McLaury Engineering,  
Pay Estimate #13 in the amount of \$3,883.75 for 9<sup>th</sup> & 5<sup>th</sup> Reconstruction #2021-07 contracted to McLaury Engineering,  
Pay Estimate #10 in the amount of \$1,967.24 for Recreation Center Fitness Room-Phase II #2021-50 contracted to Schemmer Associates,  
Pay Estimate #3 in the amount of \$4,000.00 for Street Department Fuel Storage Tanks #2021-51 contracted to West Plains Engineering, and  
Pay Estimate #2 in the amount of \$6,922.95 for Quince Street Design #2022-07 contracted to SPN & Associates.

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

**PAYROLL JUNE 12, 2022 – JUNE 25, 2022:** City Council \$3,411.04, Mayor \$1,474.35, City Administrator \$5,536.92, Attorney \$4,601.23, Finance \$13,516.24, Human Resources \$3,703.81, Municipal Building \$3,139.60, Information Technology \$2,809.76, Police \$67,865.53, Traffic \$5,149.46, Fire \$34,504.69, Street \$30,481.67, Public Works \$18,534.92, Cemetery \$6,550.52, Animal Control \$1,630.08, Library \$14,390.11, Recreation & Aquatics \$33,046.10, Recreation Center \$15,801.98, Sports Complexes \$18,132.62, Cadwell Concessions \$2,282.24, Parks \$20,952.76, Supervision \$5,666.66, E911 \$19,588.28, MVP \$656.37, Palace Transit \$24,741.03, JVCC \$496.96, Nutrition \$3,903.55, Water Distribution \$13,984.54, Sewer \$15,404.76, Airport \$2,722.84, Recycling Program \$7,662.34, Waste Collection \$6,099.45, Landfill \$9,700.61, Corn Palace \$26,877.45, Golf Course \$9,409.86, Campground \$2,217.60, Emergency Medical Services \$30,234.78.

**NEW HIRES:**

CORN PALACE: Kady Turner-\$9.95

PALACE TRANSIT: Matthew Lepke-\$19.155

RECREATION & AQUATICS: Julia Platt-\$10.45

RECREATION CENTER: Alexandra Vermeulen-\$10.45

STREET: Jack Vermeulen-\$13.45

**SALARY ADJUSTMENTS:**

EMS: Ashly Perez-Franco-\$21.202

POLICE: Daniel Kopfmann-\$31.818

RECYCLING: Travis Platt-\$23.359, Troy Sipes-\$25.167

SPORTS COMPLEXES: Roger Prewett II-\$25.458

**TERMINATIONS:**

LIBRARY: Margo Taylor

**WARRANTS:** A&B Business Solutions, Contract-\$3,978.90; Advance Auto Parts, Supplies-\$38.84; Advanced Engineering and Environmental Services, Study and Report-\$354.00; AFSCME Council 65, Union Dues-\$511.51; Agronomy Plus, Supplies-\$240.00; Alex Young, Reimbursement-\$45.00; Amazon Capital Services, Supplies-\$346.42; American Garage Door, Repair-\$336.23; Andrea Hamilton, Reimbursement-\$45.00; Andrew Schneider, Reimbursement-\$45.00; Aramark Uniform Services, Professional Service-\$153.92; AT&T Mobility Police, Utilities-\$1,365.50; Auto Body Specialties, Supplies-\$13.25; Avera Occupational Medicine, Contract Services-\$1,511.00; Baker & Taylor, Book-\$242.07; Beacon Athletics, Supplies-\$97.00; Bechen Electric, Maintenance-\$83.78; Beers & Gears Mtn Bike Race, Sports Authority Promotion-\$2,000.00; Bender's Sewer Cleaning, Maintenance-\$10,415.00; Big Daddy D's, Contract Services-\$6,107.40; Blackstone Publishing, Books-\$153.52; Boyer Ford Trucks, Supplies-\$155.56; Brad Gates, Reimbursement-\$45.00; Bx Civil Engineering, #2021-2 P.E.#1-\$187,947.21; C&B Operations, Supplies-\$1,541.34; Center Point Large Print, Books-\$91.68; Central Electric, Utilities-\$1,422.27; Century Link, Utilities-\$13.51; CHR Solutions, Billing-\$3,208.22; City of Mitchell, Utilities-\$199.86; Ck Bicycles & Locks, Supplies-\$131.00; Coca Cola Bottling, Supplies-\$100.40; Cole Palmer, Training-\$54.00; Core & Main, Supplies-\$33,331.91; Core-Mark Midcontinent, Concessions-\$7,921.04; Corn Palace, Supplies-\$404.58; Craig Stucky, Reimbursement-\$45.00; Crossroads Hotel & Huron Event Center, Travel-\$308.00; Cummins, Contract Services-\$699.96; Dakota Fluid Power, Repair-\$695.52; Dakota Pump, Repair-\$1,385.75; Dakota Supply Group, Maintenance-\$147.31; Dennis Geidel, Reimbursement-\$45.00; Department of Social Services, Child Support-\$1,104.41; Doug Greenway, Reimbursement-\$45.00; Dustbusters Enterprises, Supplies-\$2,089.80; Eric Hieb, Contract Services-\$7,576.83; Eurofins Environment Testing, Lab-\$337.00; Farmers Alliance, Supplies-\$314.09; Fastenal, Supplies-\$211.57; Ferguson Waterworks #2516, Supplies-\$651.58; First Dakota National Bank, Westwood-TID #7-\$234,023.38; First National Bank Omaha, Cash Back Redemption-\$15,950.92; Floor Tec, Professional Service-\$175.00; Gary Walton, Reimbursement-\$45.00; GF Advertising Services, Supplies-\$155.44; Golden West Technologies, Maintenance-\$225.00; Government Finance Officer, Membership Dues-\$190.00; Graham Tire, Supplies-\$268.00; Grainger, Supplies-\$182.42; Great Western Tire, Repairs-\$1,935.60; H&W Contracting, #2020-12 P.E.#5-\$180,852.49; Hawkins, Supplies-\$4,685.16; Hohbach Electric, Supplies-\$2,529.40; Info USA Marketing, Book-\$455.00; Infrastructure

Design Group, #2020-20 P.E.#7-\$124,669.15; Ingram Library Services, Books-\$775.94; Innovative Office Solution, Supplies-\$434.93; James Valley Nursery, Supplies-\$1,122.02; Jamie Henkel, Reimbursement-\$45.00; Jaylon Tollefson, Reimbursement-\$45.00; Jeff Hanson, Reimbursement-\$45.00; Joe Galpin, Reimbursement-\$45.00; Joe Haiar, Reimbursement-\$45.00; Joe Schroeder, Reimbursement-\$45.00; John Hegg, Reimbursement-\$211.00; Jon Thurman, Reimbursement-\$45.00; Jon Vermeulen, Reimbursement-\$45.00; Jones Supplies, Supplies-\$2,256.06; Josh's Tools, Supplies-\$400.40; Kathy Hanks, Reimbursement-\$45.00; Kevin Devries, Reimbursement-\$45.00; Kevin Dykes, Reimbursement-\$45.00; Kevin Roth, Reimbursement-\$45.00; Krohmer Plumbing, Repair-\$1,427.43; Lakeview Golf Course, Sports Authority Promotion-\$1,000.00; Larry's I-90 Service, Supplies-\$930.20; Leighton Family Farms, Supplies-\$786.00; Liz Kitchens, Reimbursement-\$45.00; Marco Technologies, Supplies-\$666.54; Matt Geidel, Training-\$60.00; McCormick Tara & Jeff, Trees-\$200.00; McLauri Engineering, #2021-7 P.E.#12-\$15,014.05; McLeod's Printing, Supplies-\$326.89; Menard's, Supplies-\$1,107.04; Mettler Implement, Supplies-\$435.99; Meyers Oil, Supplies-\$6,558.49; Michael Dufek, Reimbursement-\$35.00; Michael Leach, Reimbursement-\$45.00; Michelle Bathke, Reimbursement-\$45.00; Microsoft, Online Service-\$910.00; Midamerica Books, Books-\$166.60; Midcontinent Communication, Utilities-\$113.84; Midwest Mini Melts, Supplies-\$1,408.00; Midwest Turf & Irrigation, Supplies-\$1,385.16; Millennium Recycling, Single Stream Fee-\$2,752.05; Minnesota Valley Testing, Maintenance-\$3,433.00; Jamin Arend, Refund-\$101.23; Mitchell Concrete Product, Supplies-\$52.80; Mitchell Iron & Supply, Supplies-\$50.72; Mitchell Park and Rec, AARP Donation-\$900.00; Mitchell Power Equipment, Supplies-\$60.84; Mitchell United Way, Deductions-\$199.66; Mueller Lumber, Supplies-\$36.74; Muth Electric, Maintenance-\$2,219.23; Napa Central, Supplies-\$715.37; Nate Hegg, Reimbursement-\$45.00; Northwestern Energy & Communications, Utilities-\$17,723.00; O'Reilly Automotive, Supplies-\$7.06; Overtime Steak House and Sports Bar, Contract Services-\$2,194.50; Paulson Sheet Metal, Professional Service-\$52.50; Premier Equipment, Supplies-\$316.44; Public Health Laboratory, Supplies-\$60.00; Qualified Presort, Mailing Service-\$415.89; Quick Med Claims, Contract-\$3,193.23; Roger Prewett II, Reimbursement-\$45.00; Ron's Saw Sales, Supplies-\$41.03; Runnings Supply, Supplies-\$929.16; S & M Printing, Supplies-\$32.00; Sanitation Products, Supplies-\$350.34; Schemmer Associates, #2021-50 P.E.#10-\$1,967.24; Schmucker Paul & Nohr, #2020-12 P.E.#17-\$12,213.10; Scott Supply, Supplies-\$504.10; South Dakota Retirement System, Retirement Contributions-\$52,390.68; South Dakota Supplemental Retirement, Supplemental Retirement-\$3,439.80; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,353.50; Sherwin-Williams, Supplies-\$1,257.48; Sign Solutions, Supplies-\$146.61; Siteone Landscape Supply, Supplies-\$1,141.46; South Dakota 811, Professional Service-\$312.90; Spencer Quarries, Supplies-\$2,628.20; Standard Insurance, Life Insurance-\$424.75; Staples, Supplies-\$1,411.50; Stephanie Ellwein, Reimbursement-\$45.00; Steve Anderson, Reimbursement-\$45.00; Stryker Sales, Supplies-\$353.04; Sturdevants Mitchell, Supplies-\$2,869.15; Subway, Meals-\$75.85; Sun Gold Sports, Supplies-\$316.50; Tactical EMS School, Training-\$1,750.00; Tammy & Mark Davis, Tree-\$100.00; Teamsters Local No. 120, Union Dues-\$1,402.00; Terry Johnson, Reimbursement-\$45.00; Tessier's, Supplies-\$935.68; Thune True Value Hardware, Supplies-\$207.69; TK Electric, Repair-\$1,267.08; Todd Cavanaugh, Reimbursement-\$45.00; Top Grade Concrete, #2021-4 P.E.#6-\$56,028.74; Tyler Vetch, Reimbursement-\$45.00; United Parcel Service Store #4227, Shipping-\$386.54; Verizon Wireless, Utilities-\$360.09; Vern Eide Ford Lincoln, Supplies-\$285.71; Walmart/Capital One,

supplies-\$182.72; Wanda Graves, Reimbursement-\$45.00; Watertown Wholesale, Supplies-\$240.49; West Plains Engineering, #2021-51 P.E.#3-\$4,000.00; Wheelco Brake & Supply, Supplies-\$672.48; Wholesale Electronics, Supplies-\$9.49; South Dakota State Treasurer, Sales Tax Payment-\$26,503.28; Ellwein Brothers, Supplies-\$215.75.

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

**CITIZENS INPUT:**

Council Member Tjarks asked about the 5<sup>th</sup> & 9<sup>th</sup> Avenue Reconstruction Project. Public Works Director Joe Schroeder stated the project is on schedule.

Mayor Everson stated any branches from the current storm could be dropped off at the landfill or the compost site through July 11<sup>th</sup>.

**BOARD OF ADJUSTMENT:**

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

Moved by McCardle, seconded by Rice, to set date for July 18, 2022 on the application of Vander Hamm Motorsports for a conditional use permit to operate an automotive repair services facility located at 2951 South Rowley, legally described as the Lot 11, Iverson's Addition in the SE ¼ of Section 33, T 103 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota. Motion carried.

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

**HEARINGS:**

It was advised that this is the date and time set for hearing to transfer RL-19079 Retail (on-sale) Liquor License from Anisa Deinert dba Jade's, 107 North Main Street to Anisa Deinert dba Jades, 107 North Main Street due to reconfiguration of license. Notice of hearing has been given and affidavit of publication is on file. Moved by Rice, seconded by Sabers, to approve said application. Motion carried.

**EXECUTIVE SESSION:**

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

Mayor Everson declared the board out of executive session at 6:19 p.m. and the City Council to reconvene in regular session at 6:20 p.m.

**RESOLUTIONS:**

Moved by McCardle, seconded by Smith, to approve Resolution #R2022-29, Transfer of Lot 1, Block 1, Fullerton Properties 2<sup>nd</sup> Addition, as follows:

**RESOLUTION #R2022-29**

**A RESOLUTION AUTHORIZING THE TRANSFER OF LOT 1, BLOCK 1 OF FULLERTON PROPERTIES SECOND ADDITION**

WHEREAS the City of Mitchell is the owner of a lot (approximately 0.33 acres) located at the intersection of 15th Avenue and Minnesota Street which is legally described as:

Lot 1, Block 1 of Fullerton Properties Second Addition, a subdivision of the N ½ of Section 16, and a portion of previously platted Outlot B-2, a subdivision of Outlot B, Section 16, all in T 103 N R 60 w of the 5th P.M., City of Mitchell, Davison County, South Dakota; and

WHEREAS the City declared the property surplus at the 4/4/2022 council meeting, had the property appraised via board, published notice of sale, and listed the property with a broker; and

WHEREAS the City has received an offer from Moody Properties LLC to purchase the property for the amount of \$35,000 which the mayor believes should be acted on by Council; and

THEREFORE, BE IT RESOLVED BY THE MITCHELL CITY COUNCIL, that the City accept the offer made by Moody Properties LLC for Lot 1 for the sum of \$35,000.00, and that the Mayor is hereby authorized to take such actions as may be necessary to complete the transfer of such property.

Motion carried and resolution declared duly adopted.

Moved by Allen, seconded by Barington, to approve Resolution #R2022-38, Plat of Lot 2A, Block 1, Westwood First Addition, as follows:

**RESOLUTION #R2022-38**

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 27<sup>th</sup> day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOT 2A, BLOCK 1 OF WESTWOOD FIRST ADDITION, A SUBDIVISION OF SW ¼ OF SECTION 16, T 103 N, R

60 W OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOT 2A, BLOCK 1 OF WESTWOOD FIRST ADDITION, A SUBDIVISION OF SW ¼ OF SECTION 16, T 103 N, R 60 W OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Rice, seconded by Tjarks, to approve Resolution #R2022-39, Plat of Lots 1 and 2 of CJM Third Addition, as follows:

#### **RESOLUTION #R2022-39**

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 27<sup>th</sup> day of June, 2022; and

WHEREAS, it appears from an examination of the plat of LOTS 1 AND 2 OF CJM THIRD ADDITION, A SUBDIVISION OF IRREGULAR TRACT NO. 3 IN THE SW ¼ OF SECTION 32 T 104 N, R 60 W OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of LOTS 1 AND 2 OF CJM THIRD ADDITION, A SUBDIVISION OF IRREGULAR TRACT NO. 3 IN THE SW ¼ OF SECTION 32 T 104 N, R 60 W OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY, SOUTH DAKOTA as prepared by Paul J. Reiland, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Allen, to approve Resolution #R2022-41, Annexation of the South Thirteen Feet of the South Four Hundred Fifty Feet of Lot 2, Excluding the South Three Hundred Seventy-Five Feet Thereof, Mitchell Township 17-103-60, as follows:



**RESOLUTION #R2022-41**

**ANNEXATION OF THE SOUTH THIRTEEN FEET (S 13') OF THE SOUTH FOUR HUNDRED FIFTY FEET (S 450') OF LOT 2, EXCLUDING THE SOUTH THREE HUNDRED SEVENTY-FIVE FEET (S 375') THEREOF, MITCHELL TOWNSHIP, 17-103-60**

WHEREAS, Doug Aslesen has petitioned to annex the real property legally described as South Thirteen Feet (S 13') of the South Four Hundred Fifty Feet (S450') of Lot 2, Excluding the South Three Hundred Seventy-five Feet (S375') thereof, Mitchell Township 17-103-60.

WHEREAS: Doug Aslesen is the sole owner and petitioners of the real property described in this resolution; and

WHEREAS: There are no registered voters residing on the real property and there are no persons residing on the said real property to be annexed; and

WHEREAS: there are no improvements on the real property; and

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

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

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

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Tjarks, to approve Resolution #R2022-42, Annexation of Lot K of Kippes Subdivision in the East Half of the Northwest Quarter of the Northwest Quarter of Section Nine, T 103 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota and Lot A of FF Kippes' First Addition, a Subdivision of the Northeast Quarter of the Northwest Quarter of Section Nine, T 103 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota, as follows:

**RESOLUTION #R2022-42**

**ANNEXATION OF THE LOT K OF KIPPES SUBDIVISION IN THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (E ½ NW ¼ NW ¼ OF SECTION NINE (9), TOWNSHIP ONE HUNDRED THREE (103) NORTH, RANGE SIXTY (60), WEST OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY SOUTH DAKOTA AND LOT A OF F.F. KIPPES' FIRST ADDITION, A SUBDIVISION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE ¼ NW ¼) OF SECTION NINE (9), TOWNSHIP ONE HUNDRED THREE (103) NORTH, RANGE SIXTY (60), WEST OF THE 5<sup>TH</sup> P.M., DAVISON COUNTY SOUTH DAKOTA**

WHEREAS, Joseph & Barbara Kippes have petitioned to annex the real property legally described as Lot K of Kippes Subdivision in the East half of the Northwest Quarter of the Northwest Quarter (E ½ NW ¼ NW ¼) of Section Nine (9), Township One Hundred Three (103) North, Range Sixty (60), West of the 5<sup>th</sup> P.M., Davison County South Dakota and Lot A of F.F. Kippes' First Addition, a Subdivision of the Northeast Quarter of the Northwest Quarter (NE ¼ NW 104) of Section Nine (9), Township One Hundred Three (103) North, Range Sixty (60), West of the 5<sup>th</sup> P.M., Davison County South Dakota.

WHEREAS: Joseph & Barbara Kippes are the sole owners and petitioners of the real property described in this resolution; and

WHEREAS: the real property is improved, as the residence of the undersigned Property Owners is located upon said real property; and

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

WHEREAS: the undersigned Property Owners constitute at least three-fourths (3/4) of the registered voters in the territory sought to be annexed; and

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

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

Motion carried and resolution declared duly adopted.

**ORDINANCES:**

Moved by Rice, seconded by McCardle, to place Ordinance #O2022-08, Amending Mitchell City Code Section 6-1-1 Regarding Animals at Large on second reading.

Members present voting aye: Barington, McCardle, Rice, Smith. Members present voting nay: Allen, Doescher, Sabers, Tjarks. Tie breaking vote: Mayor Everson voting aye. Motion carried and ordinance placed on second reading.

Moved by Smith, seconded by Barington, to adopt Ordinance #O2022-08, Amending Mitchell City Code Section 6-1-1 Regarding Animals at Large, as follows:

**ORDINANCE #O2022-08**

AN ORDINANCE AMENDING SECTION 6-1-1 OF THE MITCHELL CITY CODE REGARDING ANIMALS AT LARGE.

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

Section 1.

That Mitchell City Code Section 6-1-1 be AMENDED by changing the definition of “AT LARGE OR RUNNING AT LARGE” to read as follows:

“An animal shall be deemed to be running at large when off or away from the owner’s premises and not under the complete control of the animal’s owner, possessor, keeper, agent, servant, or a member of the owner’s immediate family by a leash, verbal command, or remote pet collar. However, an animal present at a public gathering of ten (10) or more people, not including leash free parks, must be restrained by a leash and not by verbal command or remote pet collar. An animal is not to be deemed running at large if it is within the vehicle of the animal’s owner, possessor, keeper, agent, servant, or a member of the owner’s immediate family, or if the animal is within a posted leash free park as designated by the park and recreation board of the City of Mitchell.”

Section 2.

That Mitchell City Code Section 6-1-1 be AMENDED by adding a definition for the term “REMOTE PET COLLAR” to read as follows:

“A collar worn by an animal that when signaled by remote control delivers an electrical shock to the animal.”

Section 3.

That Mitchell City Code Section 6-1-1 be AMENDED by adding a definition for the term “COMPLETE CONTROL” to read as follows:

“A state where an animal is restrained by leash, verbal command, or remote pet collar from taking an action which is not desired by the animal’s owner, possessor, keeper, agent, servant, or a member of the owner’s immediate family and such restraint does actually prevent the animal from taking an undesired action. For verbal commands and remote pet collars to be deemed to be restraining the animal, the animal shall behave as if on a leash short enough to prevent non-consensual contact with another person, short enough to prevent trespass onto the private property of another, and in no event longer than fifty (50’) feet. Examples of undesired actions include, but are not limited to, straying too far from the animal’s handler, not following handler commands, and making contact with another person without consent. An animal is not under complete control if the animal is the aggressor in an incident where the animal is declared to be a Restricted Animal or Vicious Animal.”

Section 4.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 5.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Members present voting aye: Barington, McCardle, Rice, Smith. Members present voting nay: Allen, Doescher, Sabers, Tjarks. Tie breaking vote: Mayor Everson voting aye. Motion carried and ordinance declared duly adopted.

Moved by Rice, seconded by McCardle, to place Ordinance #O2022-11, Revising Provisions of Chapter 4-2: Liquor Control on second reading. Motion carried. Moved by Barington, seconded by Allen, to adopt Ordinance #O2022-11, Revising Provisions of Chapter 4-2: Liquor Control, as follows:

**ORDINANCE NO. O2022-11**

**AN ORDINANCE REVISING PROVISIONS OF MITCHELL CITY CODE  
CHAPTER 4-2: LIQUOR CONTROL.**

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

Section 1.

That MCC Section 4-2-4 be REPEALED in its entirety and REPLACED to read as follows:

“4-2-4: Open Containers:

A. Generally:

1. Unless explicitly exempt from this section, no alcoholic beverage shall be sold, served for consumption, consumed, or possessed unless the seal of the original package remains unbroken upon:
  - a. any public street, highway, alley, sidewalk, boulevard, or other location within public right of way; or
  - b. any parking lot to which the public has access or which is open or available to the public within the city; or
  - c. any other place, whether in or out of a building, commonly and customarily open to or used by the general public.

2. Consumption of alcoholic beverages in the following areas shall be exempt from the restrictions of Section 4-2-4(A):
    - a. The area covered by a valid on-sale alcoholic beverage license, including special event on-sale alcoholic beverage licenses.
    - b. The area approved by the city council pursuant to an application for a consumption permit and, in such an event, the city council will approve the container that will be exempt for the purposes of the consumption permit.
    - c. The immediate area where alcoholic beverage product sampling is lawfully conducted pursuant to state law.
    - d. A City owned facility pursuant to a valid rental agreement allowing the consumption of alcoholic beverages.
    - e. Upon the waters or ice of Lake Mitchell.
    - f. At any city park land abutting the shoreline of Lake Mitchell.
    - g. At the Soccer Complex, Mitchell Activities Center, and Cadwell Sports Complex, and the parking lots adjacent thereto. However, the Park and Recreation Board may adopt additional rules for these locations for the purpose of preventing the consumption of alcoholic beverages at or in connection with organized youth sporting activities. A violation of such Park and Recreation Board rule shall be deemed a violation of this ordinance.
    - h. At any other city park land authorized for consumption by the Park and Recreation Board.
    - i. At the Lakeview Golf Course. However, the Golf and Cemetery Board may adopt additional rules for the purpose of preventing the consumption of alcoholic beverages at or in connection with organized youth sporting activities. A violation of such Golf and Cemetery Board rule shall be deemed a violation of this ordinance.
  3. No person shall use a glass alcoholic beverage container while consuming an alcoholic beverage at any location identified in Section 4-2-4(A)(1). However, the area covered by a valid on-sale alcoholic beverage license, including special event on-sale alcoholic beverage licenses, shall be exempt from this prohibition on the use of glass containers.
- B. Liquor Establishments: No licensee holding any alcoholic beverage license of whatever nature shall permit any person to leave the premises for which said license is issued with any container on which the tap or seal has been broken and which contains any amount of an alcoholic beverage, except as authorized by the city council via consumption permit pursuant to South Dakota Codified Laws 35-1-5.3 and in connection with special events the city council will approve the container that will be used for the special event.”

- C. Licensee Sealed Alcoholic Beverages: An alcoholic beverage licensee may allow a person to leave the licensed premises with an alcoholic beverage that is not factory sealed so long as the licensee complies with the provisions of this section and does not otherwise violate state law. A licensee may allow a person to leave the licensed premises with an alcoholic beverage for the purposes of bulk sales, off-premises consumption of a partially consumed alcoholic beverage purchased with a meal, or sale of an alcoholic beverage in conjunction with a to-go food order. If allowing a person to leave the licensed premises with an alcoholic beverage, the licensee shall seal the alcoholic beverage container in a manner which identifies the licensed premises sealing the beverage and provides clear visual evidence that the alcoholic beverage container has been unsealed. The seal shall also prevent any of the contents of the alcoholic beverage container from being consumed without breaking the seal.

#### Section 2.

That MCC Section 4-2-5(B) be AMENDED by adding the following language as a new subsection:

“3. A licensee who operates a tavern or bar may employ an underage person if such employment complies with South Dakota Codified Law 35-4-79.4. Such underage person may only be present on the licensee’s premises for work purposes.

#### Section 3.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

#### Section 4.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

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

#### **UPDATE:**

Eric Prunty of Brosz Engineering updated the City Council on the yearly bridge inspections completed this past year. Four structures were inspected which included the Canal Bridge, the West End Bridge, Minnesota Street Box Culvert at Dry Run Creek, and the South Burr Street Box Culvert which crosses Dry Run Creek. Detailed reports are available in the Public Works office.


**EXECUTIVE SESSION:**

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

Mayor Everson declared the board out of executive session at 8:32 p.m. and the City Council to reconvene in regular session at 8:33 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 \_\_\_\_\_.