

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

**March 7, 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

AGENDA:

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

- a. City Council Minutes
 1. City Council February 22, 2022.
- b. Committee Reports
 1. Planning Commission February 14, 2022.
- c. Automatic Supplement in the amount of \$2,400.00 from a donation of funds to be used for floating islands in Lake Mitchell.
- d. Automatic Supplement in the amount of \$10,000.00 from grant funds to Parks-Recreation Center.
- e. Authorization to purchase a Boom Mower off of a Sourcewell Contract.
- f. Special Event Permit for Mitchell Main Street & Beyond for First Friday's events, May through September 2022.
- g. Raffle Permits
 1. 40 & 8 Veterans Group with the drawing to be held on April 16, 2022 and
 2. Fusion Church with the drawing to be held on May 15, 2022.
- h. Change Order #4 for South Burr Utility Improvement Project #2016-26A increasing the contract amount by \$60,479.97 to T&R Contracting, adjust contract amount to \$1,434,565.04.
- i. Set date 1:30 p.m. March 15, 2022 for bid opening for 5th & 9th Construction Project #2021-7.
- j. Set date 1:30 p.m. March 15, 2022 for bid opening for Dry Run Creek Lighting Project #2022-33.
- k. Set date 1:30 p.m. March 22, 2022 for bid opening for WWTF Headworks Improvements Project #2021-31.
- l. Set date 1:30 p.m. March 23, 2022 for bid opening for Petroleum Products Project #2021-13.
- m. Set date 1:30 p.m. March 23, 2022 for bid opening for Rock Chips Project #2022-10.
- n. Pay Estimates March 7, 2022
 - Pay Estimate #13-Final in the amount of \$133,322.52 for Burr Street Reconstruction #2016-26A contracted to T&R Contracting and

Pay Estimate #6 in the amount of \$46,600.00 for Lake Mitchell Dredging #2021-20 contracted to Barr Engineering.

- o. 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 FEBRUARY 6, 2022 – FEBRUARY 19, 2022: City Council \$3,411.04, Mayor \$1,474.35, City Administrator \$5,686.92, Attorney \$4,601.23, Finance \$12,846.59, Human Resources \$3,703.80, Municipal Building \$3,651.43, Information Technology \$3,021.50, Police \$66,088.56, Traffic \$4,698.70, Fire \$34,560.94, Street \$24,296.79, Public Works \$19,187.44, Cemetery \$4,711.89, Animal Control \$1,096.75, Library \$16,577.38, Recreation & Aquatics \$5,818.36, Recreation Center \$20,213.54, Sports Complexes \$9,806.81, Parks \$10,203.08, Supervision \$1,939.12, E911 \$19,993.75, MVP \$752.01, Palace Transit \$24,018.03, JVCC \$991.36, Nutrition \$3,939.33, Water Distribution \$15,076.29, Sewer \$15,346.65, Airport \$3,207.26, Recycling Program \$6,278.95, Waste Collection \$6,001.93 Landfill \$8,959.35, Corn Palace \$22,293.57, Golf Course \$3,780.19, Emergency Medical Services \$30,120.32.

NEW HIRES:

CORN PALACE: Dakota Becker-\$10.95, Elizabeth McCardle-\$11.45

SPORTS COMPLEXES: Coy Olson-\$10.45

SALARY ADJUSTMENTS:

E-911: Kyleena Dumas-\$26.780

MUNICIPAL BUILDINGS: Michael Leach-\$17.570

PALACE TRANSIT: Jacquelyn High-\$19.636

POLICE: Bryce Fuchs-\$26.083, Crystal Reitzel-\$22.234, Austin Resick-\$26.409

WARRANTS: A&B Business Solutions, Contract-\$3,634.28; A-Ox Welding Supply, Rental-\$20.37; Accounts Management, Garnishment-\$379.72; AFLAC, Aflac Withholding-\$10,979.74; AFLAC Group, Critical Care-\$551.70; AFSCME, Union Dues-\$486.80; Alex Air Apparatus, Testing-\$2,957.10; Amazon Capital Services, Supplies-\$2,025.18; AmericInn Fort Pierre, Travel-\$361.98; Aramark Uniform Services, Supplies-\$326.57; Ashley Coulter, Buckin' Wild Ranch:Cabin Fever-\$1,000.00; ATV Holdings, LLC DBA Mitchell Telecom, Utilities-\$67.95; Avera Occupational Medicine, Contract Services-\$1,419.00; Bailey Metal Fabricators, Supplies-\$668.16; Baker & Taylor, Books-\$860.63; Barr Engineering, 2021-20 P.E. #6-\$46,600.00; Big Daddy D's, Contract Services-\$2,310.00; Blackstone Publishing, Audiobooks-\$840.56; Blackstrap, Supplies-\$3,794.92; Boyer Trucks, Supplies-\$2,974.67; Bryce Holter, Corn Palace Games-\$110.00; C & B Operations, Supplies-\$320.32; CDW Government, Supplies-\$513.84; Cengage Learning Inc/Gale, Books-\$228.72; Center Point Large Print, Books-\$91.68; Century

Link, Utilities-\$13.53; Cherrybee's, Supplies-\$122.00; CHR Solutions, Billing-\$6,337.88; City of Mitchell, Golf Course-\$1,982.26; City of Mitchell, Utilities-\$2,024.57; Coca Cola Bottling, Supplies-\$1,175.90; Core & Main, Supplies-\$4,114.09; Core Athletics Booster. Sports Authority Promotion-\$1,500.00; Core-Mark Midcontinent, Supplies-\$7,492.79; Corsica Stickney School District, Corn Palace Games-\$2,177.00; County Fair, Supplies-\$59.99; Daily Republic, Subscription-\$236.55; Dakota Fluid Power, Supplies-\$107.93; Dakota Supply Group, Supplies-\$123.13; Dakotas Chapter-ISA, Membership-\$470.00; Davison County Register of Deeds, Supplies-\$50.00; Davison Rural Water Systems, Utilities-\$47.30; Dell Marketing, Supplies-\$1,786.00; Delta Dental Plan of South Dakota, Dental Insurance-\$13,824.86; Department of Motor Vehicle, Title-\$10.00; Department of Social Services, Child Support-\$600.87; Dianne Way, Corn Palace Games-\$80.00; Dimock Dairy, Supplies-\$247.90; Doug's Custom Paint & Body, Supplies-\$10.96; Echo Group, Supplies-\$24.00; Emergency Education, Training-\$50.00; Eric Hieb, Contract Services-\$4,509.44; Ethan School District, Corn Palace Games-\$1,340.00; Farmers Alliance, Supplies-\$1,221.77; Ferguson Waterworks #2516, Supplies-\$13,140.68; Gaylen's Homegrown Popcorn, Supplies-\$564.00; Gaylord Bros, Supplies-\$67.93; Grainger, Supplies-\$10.61; Hach, Supplies-\$456.98; Harve's Sport Shop, Supplies-\$62.96; Independent Viking Glass, Repair-\$259.32; Ingram Library Services, Books-\$2,145.77; Innovative Office Solution, Supplies-\$46.00; Interstate Glass & Door, Maintenance-\$331.42; JCL Solutions, Supplies-\$754.96; Johnson Controls Fire Protection, Repair-\$2,187.63; Jon Horton, Training-\$160.00; Jones Supplies, Supplies-\$1,744.21; Josh's Tools, Supplies-\$21.35; Kimball-Midwest, Supplies-\$668.24; Krohmer Plumbing, Maintenance-\$86.73; Lakeview Veterinary Clinic, Management Fee-\$959.95; Larry's I-90 Service, Maintenance-\$40.00; Lawson Products, Supplies-\$295.35; Leighton Family Farms, Supplies-\$450.00; Lori Schmidt, Corn Palace Games-\$80.00; M & T Fire and Safety, Supplies-\$303.09; McLeod's Printing, Supplies-\$274.60; Menard's, Supplies-\$717.72; Meyers Oil, Supplies-\$1,303.18; Michael Todd & Company, Supplies-\$930.63; Microsoft, Supplies-\$910.00; Midcontinent Communication, Utilities-\$125.90; Midcontinent Communication, Advertising-\$2,269.12; Midstates Equipment & Supplies, Supplies-\$24,999.56; Midwest Turf & Irrigation, Supplies-\$665.80; Millennium Recycling, Single Stream Fee-\$2,574.95; Minitex, Supplies-\$550.00; Miscellaneous Vendor, Warner, Tricia K Refund-\$232.62; Mitchell Animal Rescue, March Payment-\$350.00; Mitchell Power Equipment, Supplies-\$30.62; Mitchell United Way, United Way Deductions-\$199.66; Mueller Lumber, Supplies-\$53.52; Muth Electric, Maintenance-\$507.96; Napa Central, Supplies-\$426.71; Natural Formulations, Supplies-\$543.76; Northwest Pipe Fittings, Supplies-\$900.21; Northwestern Energy & Communications, Utilities-\$46,827.82; One Source The Background, Background Checks-\$234.00; Overdrive, Books-\$773.98; Papa Murphy's Pizza, Supplies-\$983.00; Parkeon, Supplies-\$60.00; Pat Dockendorf, Corn Palace Games-\$190.00; Pepsi Cola, Supplies-\$1,202.38; Peterbilt of Sioux Falls, Supplies-\$1,752.20; Premier Pest Control, Contract Services-\$600.00; Pro-Vision Solutions, Supplies-\$6,216.00; Public Health Laboratory, Lab-\$315.00; Qualified Presort, Mailing Service-\$381.93; Quick Med Claims, Service-\$4,039.36; R Place Kennel, Service Dog-\$184.00; Robert B Everson Jr., Travel-\$62.16; Ron's Saw Sales, Supplies-\$297.86; Roy King, Band for Dance-\$225.00; Runnings, Supplies-\$233.92; Saber Shred Solutions, Maintenance-\$8,510.00; Saga Communications of South Dakota, Publishing-\$1,062.50; South Dakota Department of Environment & Natural Resources, Solid Waste-\$1,969.80; South Dakota Newspaper Services, Advertising-\$172.08; South Dakota Public Assurance Alliance, Insurance Coverage-\$407,174.87; South Dakota Retirement System,

Retirement Contributions-\$51,735.26; South Dakota Supplemental Retirement, Supplemental Retirement-\$3,349.80; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,278.50; South Dakota State University Extension, Travel-\$20.00; Sherwin-Williams, Supplies-\$109.00; Sirchie Acquisition, Supplies-\$288.45; South Dakota 811, Professional Service-\$27.30; Standard Insurance Company, Life Insurance-\$2,337.36; Staples, Supplies-\$280.19; Sturdevants Mitchell, Supplies-\$2,164.41; Subway, Meals-\$67.41; Sun Gold Sports, Supplies-\$964.72; T & R Contracting, 2016-26A P.E. #13-Final-\$133,322.52; Terry Johnson, Travel-\$91.83; Texas Refiner, Supplies-\$517.28; Thune True Value Hardware, Supplies-\$88.57; TK Electric, Maintenance-\$682.92; TMA Stores, Repairs-\$25.75; Uline, Supplies-\$322.42; United Parcel Service Store #4227, Shipping-\$96.46; Verizon Wireless, Utilities-\$386.11; Walmart, Supplies-\$103.62; Waler Davis, Reimbursement-\$69.99; Wheelco Brake & Supply, Supplies-\$4,581.94; Wage Works, Flex Expense-\$13,917.43; Wellmark of South Dakota, Administration, Prescription, Medical-\$188,178.05.

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

CITIZENS INPUT:

Dwight Stadler, resident of Ward 4, stated there are adverse health effects related to 5G and believes 5G should be banned in the area.

Sonya Vanerdewyk, Mitchell Township resident, spoke regarding Covid vaccines and children.

Dwight Stadler, resident of Ward 4, stated there should be a requirement for all new construction to have a back water valve installed, especially since the flooding a few years ago.

BOARD OF ADJUSTMENT:

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

Moved by Barington, seconded by Rice, to set date for March 21, 2022 on the application of Carey and Darlene Buhler for a variance of 2,160 square feet vs 2,000 square feet for an attached garage and accessory building combination and maximum height for an accessory building of 30' vs 22' located at 600 Greenridge Lane, legally described as Lot 3, Block 2, Greenridge Addition, City of Mitchell, Davison County, South Dakota. Motion carried.

Moved by Allen, seconded by Tjarks, to set date for March 21, 2022 on the application of DLJ LLC for a variance of approximately 867 feet vs 1,000 feet from another cannabis dispensary located at 501 East Juniper Avenue, legally described as Lot S-3A, except the East 63' in the Replat of Lot S in the NW ¼ of Section 27, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota. Motion carried.

Moved by McCardle, seconded by Tjarks, to set date for March 21, 2022 on the application of Genesis Farms LLC for a conditional use permit to operate a Medical Cannabis Dispensary located at 106 West 5th Avenue, legally described as Lots 11 and 12, Block 12, Rowley's 1st Addition, City of Mitchell, Davison County, South Dakota. Motion carried.

Moved by Rice, seconded by McCardle, to set date for March 21, 2022 on the application of Genesis Farms LLC for a variance of 101' vs 300' from a religious institution located at 106 West 5th Avenue, legally described as Lots 11 and 12, Block 12, Rowley's 1st Addition, City of Mitchell, Davison County, South Dakota. Motion carried.

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

CONSIDER APPROVAL:

Moved by McCardle, seconded by Barington, to approve John Doescher as the volunteer member to the Consolidated Board of Equalization. Motion carried.

Moved by Tjarks, seconded by Rice, to approve the Special Event Permit for Horses for Hero's 5K on April 9, 2022 contingent upon receiving the liability insurance coverage. Motion carried.

Moved by Tjarks, seconded by Rice, to approve Amendment #1 to Agreement #A2021-3, West Side Water Tower Improvements Project #2021-03 with SPN & Associates in an amount not to exceed \$99,813.60. Motion carried.

Move by McCardle, seconded by Allen, to approve Agreement #A2022-10, Construction Services for the Foster Street Bridge BIG Project #2021-2 with Brosz Engineering in an amount not to exceed \$101,280.00. Motion carried.

AWARD BID:

Bids were opened and read on West Side Water Tower Improvements Project #2021-03 on the 22nd day of February, 2022. Moved by Tjarks, seconded by McCardle, to award, contingent on DANR approval, as follows:

**WEST SIDE WATER TOWER IMPROVEMENTS
PROJECT #2021-03**

Maguire Iron, PO Box 1446, Sioux Falls, SD 57101

Bid Schedule A	\$287,640.00
Bid Schedule A1	\$ 51,560.00
Bid Schedule A3	\$ 15,000.00
Total Bid-Schedules A, A1, A3	\$354,200.00

H&W Contracting, 3416 W Hovland Dr, Sioux Falls, SD 57107

Bid Schedule B	\$547,331.00
Bid Schedule B1	\$127,240.00
Total Bid-Schedule B, B1	\$674,571.00

Motion carried.

RESOLUTION:

Moved by Rice, seconded by Tjarks, to approve Resolution #R2022-07, A Resolution of Intent to Codify and Amend Provisions Relating to BID #2, as follows:

RESOLUTION #R2022-07

A RESOLUTION OF INTENT TO CODIFY AND AMEND BUSINESS IMPROVEMENT DISTRICT NO. 2 WITHIN THE CITY OF MITCHELL.

WHEREAS, the City of Mitchell first implemented Business Improvement District Number 2 (BID 2) pursuant to Ordinance #2441 in July 2013. Since that time, the provisions and boundaries of BID 2 have been subject to several updates, all duly noticed and heard as required by law, and implemented by 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, BID 2, as originally adopted and subsequently amended, has remained in full force and effect since its original adoption, but has never been codified; and

WHEREAS, the City desires to codify and re-implement all provisions relating to BID 2 as originally adopted under Ordinance #2441, and as thereafter amended by subsequent resolution and ordinance, in addition to such further amendments contained herein.

THEREFORE, the City Council of the City of Mitchell, SD RESOLVES, by passage of this Resolution of Intent pursuant to SDCL Chapter 9-55, to re-affirm the provisions relating to BID 2 as they currently exist, to pass an ordinance which would codify the following provisions relating to previously established BID 2, and to provide such further changes as may be contained within the proposed sections below, including an increase of the occupational tax rate from \$1.50 per rented room per night to \$2.00 per rented room per night; all consistent with the proposed new sections of the Mitchell City Code to read as follows:

2-7-1: Establishment of District:

The City of Mitchell did pass a resolution of intent (Resolution #3109) relating to Business Improvement District 2 (BID 2) on May 20, 2013. The hearing relating to the creation of BID 2 was held on July 1, 2013 subsequent to passing Ordinance #2441 that day which formally created BID 2. BID 2 was subsequently amended, updated, and/or renewed, following notice and hearing required by law, pursuant to Resolution #3330 (amending 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). At the time of this codification, it is the intent of the City of Mitchell that BID 2 continue on in existence pursuant SDCL Chapter 9-55 and according to the further provisions of this chapter.

2-7-2: Definitions:

BID or BID 2: Business Improvement District Number 2 previously established by ordinance and now codified in this chapter.

TAX or BID 2 TAX: The tax imposed on the Lodging Establishments of \$2.00 per rented room per night to be imposed, collected, applied, commenced, terminated, or otherwise administered as described in this chapter.

LODGING ESTABLISHMENT: Motel and hotel businesses within the City, which is any building, structure, property or premises kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for a per night rental charge, to transient guests. The terms "Lodging Establishment" and "Motels and Hotels" or the like are synonymous.

TRANSIENT GUEST: Any person who resides in a lodging establishment less than 28 consecutive days.

CITY: The City of Mitchell, South Dakota.

SPORTS & EVENTS AUTHORITY: A committee of the City which seeks to increase use of facilities within the City for sports and other events wherein participants and others will utilize Lodging establishments within the City as well as the promotion and coordination of such sports and events.

REVENUE: The tax paid to and collected by the City pursuant to the BID.

2-7-3: Purposes of the District:

A. The purpose of BID 2 has been and will continue to be to provide funding towards activities and projects that benefit the City and lodging establishments located within the district by making the City a more attractive location to host sporting competitions, events, and generally encouraging those outside the community to visit and stay in Mitchell. Since its original creation, BID 2

has served a number of stated purposes including the support of designated Sports & Events Authority programs, construction and maintenance of a second sheet of ice at the Mitchell Activities Center, and construction and maintenance of the Indoor Aquatic Center.

- B. In addition to these pre-existing purposes, BID 2 and the revenue therefrom may also be used for:
 - 1. the construction or installation of any useful or necessary public improvement;
 - 2. development of any activities and promotion of the district area;
 - 3. maintenance, repair, and reconstruction of any improvements or facilities authorized by SDCL Chapter 9-55;
 - 4. paying all or any part of the total cost and expenses of any authorized improvement, facility or activity within BID 2; or
 - 5. any other permitted purpose under SDCL 9-55-3, 9-55-14, or any other provision of SDCL Chapter 9-55.

- C. In no event will BID 2 or the revenue therefrom be utilized for a purpose which is not authorized by SDCL Chapter 9-55.

2-7-4: District Boundaries:

The boundaries of BID 2 were previously established and adjusted pursuant to Ordinance #2441, Resolution #3330, and Ordinance #2521. At the time of codification, two properties which were formerly lodging establishments are no longer in operation, however such properties are listed here due to being previously included in the district and the intent of this codification is merely to continue the boundaries as previously established by the above ordinances and resolutions without any geographical changes. As such, the boundaries as previously established are as follows:

- A. Public places, pathways and rights of way:
 - 1. Spruce Street from South Capital Street to Highway 37,
 - 2. Cabela Drive from Langdon Street to Spruce Street,
 - 3. Highland Way (all),
 - 4. SD Highway 37 (not bypass—I90 business loop) from Spruce Street to Havens Street, including access roads adjunct thereto,
 - 5. Havens Street from South Burr Street to Ohlman Street (i.e. to Highway 37 bypass),
 - 6. SD Highway 37 bypass (Ohlman Street) from Loma Linda to West 8th Avenue,
 - 7. West 8th Avenue from Highway 37 bypass to North Minnesota Street,
 - 8. North Minnesota Street from West 8th Avenue to West 12th Avenue,

9. West and East 12th Avenue from North Minnesota Street to North Main Street,
10. North Main from East 12th Avenue to the point of intersection of the northern lot line of adjacent Lot 1 Aquatic Center 1st Addition (previously known as the northern lot line of Irregular Tract 5, Section 15, T103N, R60W, Davison County, SD),
11. East 12th Street from the intersection with North Main Street to the intersection of North Lawler Street,
12. All intersections of the beginning and termination designations of the above described public places, pathways and rights of way.

B. The following properties all located within the City of Mitchell, Davison County, South Dakota:

Business Name & Address	Legal Description
<i>Americinn</i> 1421 S Burr Street	Lot S-9 replat of Lot S NW 1/4 of Section 27, T103N, R60W
<i>Corn Palace Inn (Formerly Best Western)</i> 1001 S Burr Street	Blocks 11 & 14 Weavers Squares Addition and vacated Ivy Ave & W 25 of vacated Burr St NW 1/4 of Section 27, T103N, R60W
<i>Budget Inn</i> 1518 W Havens Avenue	IT 4B & IT 4E SW 1/4 of Section 21, T103N, R60W, ex. Lot H-1 of IT 4B & ex. Lot 4B1 Subdivision of Previously Platted Lot 4B & ex. Lot 1 of Anthony Motel 1st Addition
<i>Coach Light Motel</i> 1000 W Havens Avenue	Lot 10 Block 2 Blooms Addition & 8B SW 1/4 of Section 21, T103N, R60W
<i>Comfort Inn & Suites</i> 2020 Highland Way	Lot 4A Highland Business Park Addition SE 1/4 of Section 27, T103N, R60W
<i>Days Inn</i> 1506 S Burr Street	Lot 2A Block 3 a subdivision of Lot 2 Block 3 SLB Sub & previously platted Lot TX& S32' of W 125. 23' of 2B Block NE 1/4 of Section 27, T103N, R60W
<i>Hampton Inn</i> 1920 Highland Way	Lot 2A Highland Business Park Addition SE 1/4 of Section 27, T103N, R60W
<i>Holiday Inn Express Hotel & Suites</i> 810 E Spruce Street	E 396' of Lot 3C ex. E 180' thereof Cabelas 1st Addition SE 1/4 of Section 27, T103N, R60W
<i>Kelly Inn & Suites</i> 1010 Cabela Drive	Lot 2B of Cabelas 1st Addition SE 1/4 of Section 27, T103N, R60W
<i>Motel 6</i> 1309 S Ohlman Street	Lot X-2 of Lot X located in Section 29, T103N, R60W
<i>Quality Inn</i>	Lot S-3 A Subdivision of Lot S, ex. W

1221 S Burr Street	258' NW ¼ of Section 27, T103N, R60W
Rodeway Inn <i>(Formerly Econolodge)</i> 1313 S Ohlman Street	The E 317' of Lot X-1 within Lot X located in the SE 1/4 of NE 1/4 of Section 29, T103N, R60W
Siesta Motel 1210 W Havens Avenue	Lot 7B in SW 1/4 of Section 21, T103N, R60W
Super 8 Motel 1700 S Burr Street	Lot 5 of Amoco Irreg. Tract located in the SE 1/4 of Section 27, T103N, R60W
Thunderbird Lodge 1601 S Burr Street	Lot "CH" located in the NW 1/4 of SE 1/4 of Section 27, T103N, R60W
Former Ramada Inn 1525 W Havens Avenue	Block 4 except the N 151.45' x W 167' and ex. east 175' and ex. H5 & Ex N 50' of W 50' of S 165' of E 55' of Block 4 Sunnyside Addition NW ¼ of Section 28, T103N, R60W
Former Corn Palace Inn 902 S Burr Street	Lot 3 in Square 1 Weavers Squares Addition Ex. H3, H4 & H5 & H6 NW ¼ of Section 27, T 103N, R60W
Mitchell Activities Center 1001 N Minnesota Street	Lot A-1-A, a subdivision of previously platted Outlot A-1 in the W 1/2 of the SE 1/4 and the E 1/2 of the SW 1/4 of Section 16, T103N, R60W; and The E 439' of that portion of Lot A1 in the W 1/2 of the SE 1/4 and the E 1/2 of the SW 1/4 of Section 16, T103N, R60W, ex. the North 690' thereof and except Lot A-1-A thereof and except the South 634' thereof
Mitchell Indoor Aquatic Center 1300 N Main Street	Irregular Tract No. 5 in the SW1/4 of Section 15, T103N, R60W (including what is now platted as Lot 1 of Aquatic Center 1st Addition)

2-7-5: Adding Property to District and Dissolution of Lodging Establishment.

Property may be added to BID 2 by resolution pursuant to SDCL Chapter 9-55. This may include property for new or relocating lodging establishments or other public way, property, facilities or improvements. In the event a lodging establishment included in the boundaries of BID 2 discontinues operation, such property may remain in the district however such property will no longer be required to pay the tax or provide accounts relating to the tax unless a lodging establishment subsequently begins or resumes operations on that property.

2-7-6: Occupational Tax.

- A. There is hereby imposed, re-imposed, or continued a tax upon the businesses within BID No. 2, subject to the limitations hereafter stated, of \$2.00 per night per rented room on all lodging establishments with the tax to commence and with the revenue collected to be applied as hereafter provided.
- B. The tax shall be paid and reported to the City on a form or forms provided by the City Finance Office. Such form shall include a the following statement, "I declare, under penalty of perjury, that the above accounting of rooms rented is accurate and the tax payment made herein is accurate to the best of my knowledge, information, and belief and according to my business records." and will also include the signature of the person remitting the form to the City along with that person's printed name, title, and the date.
- C. The BID 2 tax shall remain in effect until terminated pursuant to state law.

2-7-7: Application of Revenue

- A. The revenue produced by the BID 2 tax shall be allocated and expended by the City Council on at least an annual basis exclusively for the purposes authorized under Mitchell City Code Section 2-7-3. Under no circumstances may BID 2 tax revenue be allocated or expended for a purpose which is not authorized by SDCL Chapter 9-55.
- B. The tax, having been previously in place at \$1.50 per night per rented room, shall continue in full force and effect with the new rate of \$2.00 per night per rented room to commence on the first day of the first month following adoption and publication of the ordinance and the expiration of the referral period therefore. The City Finance Officer shall provide a written notice by mail to the physical address of each lodging establishment notifying each of the new rate and the date the new rate takes effect. Such notice shall be mailed at least twenty (20) days in advance of the new rate increase taking effect.
- C. The City Council shall allocate such funds as may be necessary to fund any obligations relating to the second sheet of ice, indoor aquatic center, and Sports & Event Authority programs for any project where the city pledged such revenue towards repayment of a debt. For all other allocations and expenditures, such allocations and expenditures shall be made pursuant to subsection A of this section.
- D. The Tax shall be collected by Lodging Establishment businesses from the paying overnight guests as a separate tax charge. No Tax shall be collected from or paid to the City on any room provided to an overnight guest on complimentary basis and for which no fee is charged. The amount of Tax paid by each individual Lodging Establishment shall be confidential unless disclosure is required for court enforcement proceedings.

E. In the event that BID 2 is abolished, dissolved, or terminated, the City Council shall dispose of any remaining proceeds pursuant to SDCL Section 9-55-20.

2-7-8: Duty to Account for Complimentary and Lease Rooms.

Each lodging establishment shall account for complimentary or leased rooms which are also subject to audit by the City, with records showing the reason rooms were provided on a complimentary basis or for a period of 28 days or more.

2-7-9: Computation and Collection of Occupation Tax.

The City Finance Officer is authorized to determine and compute the tax in accordance with the filed report. The Tax assessed shall be remitted by the 20th day of each month to the City, based on the previous calendar-month Tax collections. The City Finance Officer or designee shall be authorized to audit the books, ledgers, or franchise reports of any Lodging Establishment subject to the terms of this ordinance, including the right to inspect daily reports so as to ensure that the Tax is properly remitted to the City. The City may seek injunctive relief, against any Lodging Establishment which does not remit the proper amount of tax monies when due. Each Lodging Establishment subject to the Tax shall keep accurate records of amounts collected from the transient guests for review by the City Finance Officer or their designee.

2-7-10: Failure to Pay Occupational Tax.

- A. All remittances of tax collected pursuant to this ordinance shall be due and received in the office of the City Finance Officer on or before the 20th day of the month following the month for which the tax was collected. All amounts that are not received on or before the 20th day of the month will be charged a late fee in the amount of ten percent of the total amount due. Failure to timely remit the tax shall constitute a violation of this ordinance. Any unpaid balance under this article shall constitute a lien upon the property owned by the business or user of space being taxed and shall become a lien against and shall run with the property and may be enforced and collected in the same manner as other unpaid real property taxes and assessments.
- B. The City shall have the ability to deny the issuance of permits or licenses or any renewals thereof to any business or premise that fails to conform to the provisions of this ordinance, including, but not limited to, building permits, malt beverage licenses and liquor licenses. The City shall have the ability to discontinue the provision of any city provided utility service to any business or premise that fails to conform to the provisions of this ordinance.

- C. Nothing within the body hereof shall be construed as limiting any other rights which the City has, or may pursue in seeking collection of tax monies not paid under the terms herein. In the event of any civil or criminal action being filed seeking collection of any delinquent assessments, the offending lodging establishment or property owner shall be responsible for and pay all attorney's fees and costs incurred by the City in seeking payment under the terms of this chapter.
- D. In the event this tax becomes subject to supervision by the State through the State's Department of Revenue, any rights which the City has herein shall be deemed cumulative to any powers which inure to the benefit of the State.

2-7-11: Severability.

Should any section, clause or provision of this Resolution be declared invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

Motion carried and resolution declared duly adopted.

ORDINANCE:

Moved by Rice, seconded by Sabers, to place Ordinance #O2022-02, Rezoning of Block 12 except the South 395' of the North 490' of the West 231' of Morningview Addition in the Southeast ¼ of Section 28, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota from UD Urban Development District to I Industrial District on second reading. Motion carried. Moved by Rice, seconded by Allen, to adopt Ordinance #O2022-02, Rezoning of Block 12 except the South 395' of the North 490' of the West 231' of Morningview Addition in the Southeast ¼ of Section 28, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota from UD Urban Development District to I Industrial District, as follows:

ORDINANCE NO. O2022-02

AN ORDINANCE OF THE CITY OF MITCHELL, THAT CHANGES THE ZONING DISTRICT CLASSIFICATION OF THE REAL PROPERTY LEGALLY DESCRIBED AS; Block 12 Ex S 395' of N 490' of W 231' of Morningview Addition in the SE ¼ of Section 28, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota from UD Urban Development District to I Industrial District AND THE OFFICIAL ZONING MAP BE CHANGED TO REFLECT THE SAME.

BE IT ORDAINED BY THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA:

Section 1: THE ZONING DISTRICT CLASSIFICATION OF THE REAL PROPERTY LEGALLY DESCRIBED AS Block 12 Ex S 395' of N 490' of W 231' of Morningview

Addition in the SE ¼ of Section 28, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota from UD Urban Development District to I Industrial District AND THE OFFICIAL ZONING MAP BE CHANGED TO REFLECT THE SAME.

Section 2. The City Finance Officer shall publish notice of this ordinance and the same shall be effective 20 days after the completed publication thereof, unless the referendum shall be invoked as provided by law.

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

Moved by McCardle, seconded by Rice, to place Ordinance #O2022-04, Amending the Election Wards of the City of Mitchell on second reading. Motion carried. Moved by Rice, seconded by Barington, to adopt Ordinance #O2022-04, Amending the Election Wards of the City of Mitchell, as follows:

ORDINANCE #O2022-04

AN ORDINANCE AMENDING THE ELECTION WARDS OF THE CITY OF MITCHELL

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

Section 1.

That the City of Mitchell, pursuant to 2020 census data, must update its election wards. As such, Mitchell City Code Section 1-5-5(A) is hereby AMENDED to read as follows:

- A. Election Wards: The land area of the city within the corporate limits shall be divided into four (4) election wards. Each ward will represent a quadrant of the City made by two paths: one primarily north-south (Meridian) and one primarily east-west (Parallel). The Meridian, Parallel, and wards are defined as follows:

Meridian: Beginning at the City's southern municipal boundary, the path of the Meridian follows Rowley Street north to Havens Avenue, then Havens Avenue west to Sanborn Boulevard, then Sanborn Boulevard north to 4th Avenue, then 4th Avenue east to Duff Street, then Duff Street north to 11th Avenue, then 11th Avenue east to Rowley Street, then Rowley Street north to 15th Avenue, then 15th Avenue east to Main Street, then Main Street north to the City's northern municipal boundary.

Parallel: Beginning at the City's western municipal boundary, the path of the Parallel follows 8th Avenue east to Edgerton Street, then Edgerton Street south to 4th Avenue, then 4th Avenue east until the City's eastern municipal boundary.

Ward One: The area of the City lying south of the Parallel and west of the Meridian.

Ward Two: The area of the City lying south of the Parallel and east of the Meridian.

Ward Three: The area of the City lying north of the Parallel and east of the Meridian.

Ward Four: The area of the City lying north of the Parallel and west of the Meridian.

Section 2.

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

Section 3.

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.

Moved by McCardle, seconded by Smith, to place Ordinance #O2022-03, Rezoning of Lot 1, Block 1 of Fullerton Properties Second Addition, a Subdivision of the North ½ of Section 16, and a portion of previously platted Outlot B-2, a Subdivision of Outlot B, Section 16, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota from PL Public Lands District to R3 Medium Density Residential District. Motion carried.

EXECUTIVE SESSION:

Moved by McCardle, seconded by Rice, 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 8:06 p.m. and the City Council to reconvene in regular session at 8:07 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 _____.