

**CHAMBER OF THE BOARD OF CITY COMMISSIONERS
YANKTON, SOUTH DAKOTA
MAY 11, 2009**

Regular meeting of the Board of City Commissioners of the City of Yankton was called to order by Mayor Specht.

Roll Call: Present: Commissioners Carda, Ellingson, Gross, Knoff, Lowrie, Murphy, VanDerhule, and Wenande. City Attorney Hosmer and City Manager Russell were also present. Absent: None. Quorum present.

Action 09-125

Moved by Commissioner Gross, seconded by Commissioner Wenande, to approve the Minutes of the regular meeting of April 27, 2009.

Roll Call: All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 09-126

Moved by Commissioner Ellingson, seconded by Commissioner Gross, that the Schedule of Bills be approved and warrants be issued.

A & B BUSINESS EQUIPMENT INC-RICOH COPIER-\$248.16; A & R CONSTRUCTION-APRON CONSTRUCT-\$42,192.20; ACCUCUT-DIES-\$200.00; ACE HARDWARE-FURNACE FILTERS-\$900.79; ACS GOVERNMENT INF SERVICE-MAINT PROGRAM SUPPORT-\$2,280.48; ACTIVE NETWORK INC-ON-LINE PAYMENTS-\$591.24; ALLTEL-CELL PHONE BILL-\$332.65; AMERICAN FAMILY LIFE CORP-FLEX SERVICE FEE-MAY-\$125.00; AMERICAN RED CROSS-TRAINING SUPPLIES-\$207.00; ANKENY CONSTRUCTION-CONCRETE-\$204.00; APPEARA-TOWEL SERVICE-\$252.65; ASH CITY USA-MERCHANDISE-\$260.12; ASSOCIATED SUPPLY CO-DIVING BOARD-\$5,722.72; AVERA HOME MEDICAL EQUIPMENT-SUPPLIES-\$23.50; BAG BOY CO-MERCHANDISE-\$468.50; BAKER & TAYLOR BOOKS-BOOKS-\$3,757.78; BALDWIN FILTERS-REFUND-TRANSFER STATION-\$12.72; BIERSCHBACH EQUIP & SUPPLY-GARAGE PARTS-\$61.57; BOLLER PRINTING INC-PRINTING-\$439.00; BOMGAARS INC-GARAGE PARTS-\$1,574.58; BONANZA SIRLOIN PIT #305-DOC WORK PROGRAM-\$58.21; BOW CREEK METAL INC-CUT & WELD PIPE-\$150.00; BRANDT LAND SURVEYING INC-LATHS/LUMBER-\$308.00; BUSHNELL OUTDOOR PRODUCTS-MERCHANDISE-\$305.25; BUTLER MACHINERY CO-GARAGE PARTS-\$272.55; CALLAWAY GOLF-GOLF CLUBS-\$2,584.97; CARLSON AVIATION-MANAGEMENT CONTRACT-APR-\$688.41; CARROLL DISTRIBUTING-GARAGE PARTS-\$99.34; CASEY'S GENERAL STORE-DOC WORK PROGRAM-\$27.98; CASH-WA DISTRIBUTING-ENTREES-\$253.00; CEDAR COUNTY NEWS-CLASSIFIED ADS-\$143.08; CHAMBER OF COMMERCE-SPECIAL APPROPRIATION-\$96,362.50; CHASE PEST SERVICE-PEST CONTROL-\$39.00; CHESTERMAN COMPANY-SOFT DRINKS-\$1,094.88; CHILD'S WORLD-BOOKS-\$414.70; CITY OF SIOUX FALLS-TESTING-\$202.80; CITY OF VERMILLION-JT POWER CASH TRANS-\$30,612.46; CITY OF YANKTON-CENTRAL GARAGE RUBBISH-\$16.00; CITY OF YANKTON-CITY CLEAN-UP CITY WIDE CLEAN UP-\$14,046.97; CITY OF YANKTON-PARKS LANDFILL CHARGES-\$212.46; CITY OF YANKTON-SOLID WASTE COMPACTED GARBAGE-\$8,201.52; CITY UTILITIES WATER-WW CHARGES-\$2,980.81; CLARITUS-INK/MAILING LABELS-\$5.00; CLEVELAND GOLF-GOLF CLUBS-\$2,961.79; COLE PAPERS INC-SUPPLIES-\$183.60; COLE-PARMER INSTRUMENT CO-PARTS-\$345.28; CONCRETE MATERIAL-CONCRETE-

\$704.00; CONKLING DIST/JOHN-MALT BEVERAGES-\$1,756.70; COX AUTO INC-GARAGE PARTS-\$208.50; CREDIT COLLECTION SERVICE INC-UTIL COLLECT-MAR 09-\$26.50; CRESCENT ELECTRIC-ELECTRICAL WIRE-\$1,526.97; CULLIGAN-SOFTNER SALT-\$57.50; CUT-RATE BATTERIES INC-BATTERIES/CHARGERS-\$75.20; D-P TOOLS-HANDS FREE LIGHTS-\$34.06; DAKOTA BEVERAGE CO INC-MALT BEVERAGES-\$1,492.30; DAKOTA SUPPLY GROUP-BLDG MATERIAL-DOG PARK-\$3,359.55; DEMCO-TAPE-\$239.08; DEPT OF CORRECTIONS-DOC WORK PROGRAM-\$192.29; DEPT OF ENVIROMENTAL-PRINCIPAL-\$9,705.57; DEPT OF ENVIROMENTAL-PRINCIPAL-\$6,393.03; DEPT OF ENVIRONMENT-PRINCIPAL-\$2,304.82; DEPT OF HEALTH-REGISTRATION FEE-\$35.00; DEPT OF REVENUE-MALT BEV LICENSE FEE-\$125.00; DEPT OF REVENUE-LAB FEES-\$1,639.00; DOWNTOWN SCREENPRINTING-SOFT DRINK CUPS-\$365.34; EARTHGRAINS COMPANY-ENTREES-\$186.25; EASY PICKER GOLF PRODUCTS INC-RANGE TOKENS-\$110.31; ECHO-SUPPLIES-\$35.62; EHRESMANN ENGINEERING INC-ANGLE IRON-\$13.53; ENERGY LABORATORIES INC-LAB WORK-\$435.00; ETHANOL PRODUCTS LLC-CARBON DIOXIDE-\$439.85; FASTENAL COMPANY-NUTS & BOLTS-\$194.62; FEDEX-SHIPPING-\$110.20; FEJFAR PLUMBING INC-PARTS-\$64.70; FELD EQUIPMENT CO INC-PARTS-\$39.75; FINANCE, DEPT OF-PETTY CASH REIMBURSEMENT-\$101.47; FINANCE, DEPT OF-MALT BEV LICENSE FEE-\$125.00; FIRST DAKOTA NAT'L BANK CORP-CREDIT CARD PAYMENT-\$513.24; FIRST NATIONAL BANK-SALES TAX REV BONDS-\$396,074.19; FRITO-LAY INC-SNACK FOODS-\$222.24; FULLERTON LUMBER-PARTS-\$48.07; GARDEN GATE LLC-TREES-\$2,110.00; GARDNER & ASSOCIATES-SAFETY TOWN SUPPLIES-\$335.00; GARY'S REPAIR-TOWING-\$160.00; GCSAA SOUTH DAKOTA CHAPTER-DUES-\$80.00; GEAR FOR SPORTS-MERCHANDISE-\$535.36; GERSTNER OIL CO-OIL-\$2,847.35; GIRTON ADAMS COMPANY-BOILER PARTS-\$224.95; GLOBAL TOUR GOLF-GOLF GRIPS-\$379.47; GODFATHERS PIZZA-DOC WORK PROGRAM-\$79.27; GOVT FINANCE OFFICER ASSN-REGISTRATION FEES-\$150.00; GRAINGER-SUPPLIES-\$428.73; GRAMPS-FUEL-\$2,474.75; GRAYMONT CAPITAL INC-PEBBLE LIME-\$4,395.30; GREAT PLAINS INTERNATIONAL-PARTS-\$23.34; GUMDROP BOOKS-BOOKS-\$1,208.41; HANSEN LOCKSMITHING-KEYS-\$24.00; HARDING GLASS-REPAIR DOOR SWITCH-\$214.00; HART'S AUTO SUPPLY-GARAGE PARTS-\$132.76; HARTINGTON SHOPPER-CLASSIFIED AD-\$90.00; HAWKINS INC-CHEMICALS-\$3,127.23; HD SUPPLY WATERWORKS LTD-PARTS-\$3,167.85; HDR ENGINEERING INC-WW HYDROG INVEST-\$9,851.59; HEDAHL'S PARTS PLUS-GARAGE PARTS-\$1,442.08; HERITAGE HOMES INC-1/2 SP APPROPRIATION-\$1,250.00; HISTORIC DOWNTOWN YANKTON INC-1/3 SPEC APPROPRIATION-\$15,000.00; HORNUNG'S PRO GOLF SALE INC-MERCHANDISE-\$753.14; HUMAN RESOURCE ASSN SD-REGISTRATION FEE-\$25.00; HYVEE-ENTREES-\$818.34; INDEPENDENCE WASTE-RENTALS-\$148.14; INFOPRINT SOLUTIONS CO-PRINTER LEASE/MAINT-\$357.00; INMAN & STRICKLER PLC-CONSULTING FEES-\$550.00; J&H CARE & CLEANING COMPANY-JANITORIAL SERVICE-MARCH-\$2,300.00; JACK'S UNIFORMS-UNIFORMS-\$1,426.99; JAMES STEEL ERECTION-NORTH FIRE STATION-\$52,250.00; JCL SOLUTIONS/JANITORS CLOSET--SUPPLIES-\$1,576.99; JODEAN'S-MEETING SUPPLIES-\$150.75; JOHNSON ELECTRIC-REPAIRS-\$96.94; JOX SOX INC-MERCHANDISE-\$266.77; JUSTRA'S BODY SHOP INC-REPAIRS-\$150.00; K-MART STORE #4813-SAFETY SUPPLIES-\$177.26; KAISER HEATING & COOLING INC-REPLACE VENT PIPE-\$220.00; KAISER REFRIGERATION INC-REPAIR EQUIPMENT-\$264.42; KING PAR CORPORATION-GOLF CLUBS-\$63.87; KNOLOGY-PHONE BILL-\$2,840.89; KNOLOGY-INTERNET SERVICES-\$704.40; KOLETZKY IMPLEMENT INC-GARAGE PARTS-\$58.02; KUSTOM SIGNALS INC-REPAIRS-\$143.09; KVHT-FM RADIO-ADS-\$375.00; L&L MOTORS INC-PARTS-\$68.26;

LARRY'S CANVAS & SHOE REPAIR-REPAIRS-\$40.00; LARRY'S PLUMBING SERVICE-PARTS-\$24.84; LERNER PUBLISHING GROUP-BOOKS-\$440.13; LEWIS & CLARK BHS-1/2 SP APPROPRIATION-\$10,232.00; LEWIS & CLARK FORD-REPAIRS-\$1,860.02; LEWIS & CLARK THEATRE CO-1/2 SP APPROPRIATION-\$1,250.00; LIBRARY-CHANGE FUND-DOC WORK PROGRAM-\$28.36; LONG'S PROPANE INC-PROPANE-\$120.00; LYLE SIGNS INC-SIGN LETTERS-\$755.84; MARKS MACHINERY-MOWER-\$6,171.20; MARSHALL-BOND PUMPS INC-PUMP PARTS-\$1,437.21; MCGRATH NORTH MULLIN & KRATZ-PROFESSIONAL SERVICES-\$754.00; MIDAMERICAN ENERGY-FUEL-APRIL-\$4,271.74; MIDAMERICAN ENERGY-WATER/WW FUEL-\$6,975.89; MIDWEST TAPE-DVD'S-\$88.94; MIDWEST TURF & IRRIGATION-IRRIGATION PARTS-\$1,511.77; MODERN BODY SHOP INC-REPAIRS-\$50.00; MONTEREY CLUB-MERCHANDISE-\$1,292.84; MORRIS COUPLING COMPANY-PARTS-\$168.98; NB GOLF CARS INC-GOLF CAR LEASE-MAY-\$9,668.00; NEBRASKA AIRFILTER INC-FILTER MATERIAL-\$342.30; NELSON ELECTRIC-SERVICE REPAIRS-\$25.75; NELSON/KIM-REFUND-ARCHERY-\$15.90; NORTHERN WATER WORKS SUPPLY-WATER METERS-\$2,675.02; NORTH TOWN AUTOMOTIVE-PART-\$6.47; NORTHWESTERN ENERGY-ELECTRIC-APRIL-\$45,092.31; O'CONNOR COMPANY-PARTS-\$245.15; OBSERVER-SUBSCRIPTION-\$60.00; OFFICE OF WEIGHTS & MEASURES-INSPECT SCALE-\$94.00; ONE CALL SYSTEMS INC-LOCATES-\$117.70; PAYER/MARK-REIMBURSEMENT-\$6.36; PHOTOGRAPHY BY JERRY-PHOTO-\$90.00; PILGER SAND AND GRAVEL INC-COURSE SAND-\$2,087.40; PING-GOLF CLUBS-\$1,248.87; PIONEER BANK & TRUST-RICOH COPIER LEASE-\$198.83; PIZZA RANCH-STAFF MEETING SUPPLIES-\$51.95; POLICE CHIEFS' ASSN-REGISTRATION-\$60.00; POLK CITY DIRECTORIES-DIRECTORIES-\$165.00; PRESS DAKOTA MSTAR SOLUTIONS-SUMMER BROCHURE-\$5,715.53; PRISTINE WATER SOLUTIONS-PHOSPHATE-\$25,074.00; PRO AUTO-TOWING-\$50.00; PRO-BUILD-BUILDING MATERIALS-\$137.32; PUMP 'N' STUFF-CAR WASHES-\$45.00; QUILL CORPORATION-SUPPLIES-\$149.07; QUIZNOS #9406-DOC WORK PROGRAM-\$26.04; QWEST COMMUNICATIONS-PHONE BILL-\$1,550.13; RACOM CORPORATION-RADIO ACCESS-\$1,143.90; RADIO SHACK CORPORATION-RECORDERS-\$89.98; RECREONICS INC-POOL LADDERS-\$613.51; REGIONAL TECHNICAL EDUCATION-LEASE-MARCH-\$1,466.67; REINHART FOODS INC-ENTREES-\$1,282.72; RELIABLE PRINTING SOLUTIONS-PRINTER CARTRIDGE-\$236.47; RON'S AUTO GLASS REPAIR-PARTS-\$30.00; ROURKE PUBLISHING LLC-BOOKS-\$186.77; ROYAL SPORTS SHOP-NAME PLATE-\$30.10; RURAL DEVELOPMENT-SR CITIZENS LOAN-\$3,075.00; SANITATION PRODUCTS INC-PARTS-\$491.96; SHEEHAN MACK SALES & EQ INC-GARAGE PARTS-\$1,465.90; SHERWIN WILLIAMS CO-INSTALL CARPET-\$586.73; SHOWCASES CD-CASES-\$63.33; SIOUX EQUIPMENT COMPANY INC-REPAIRS-\$377.45; SIOUX FALLS RUBBER STAMP WORKS-SELF-INKING STAMPS-\$124.15; SOUTH DAKOTA ENG SOCIETY-SDES CONFERENCE-\$163.00; SOUTH DAKOTA HUMANITIES-HUMANITIES PROGRAMS-\$70.00; SOUTHGATE 66-VEHICLE REPAIRS-\$10.00; STERN OIL CO INC-DIESEL FUEL-\$13,912.78; SUPERIOR TECH PRODUCTS-CHEMICALS-\$8,596.00; THOMSON WEST-LOCAL GOVT LAW-\$243.00; TITLEIST AND FOOT-JOY-GOLF CLUBS-\$1,252.80; TMA-VEHICLE REPAIRS-\$276.43; TOUR EDGE-GOLF CLUBS-\$652.97; TRI-STATE TURF-IRRIGATION PARTS-\$2,173.67; TRUCK TRAILER SALES INC-CLAMPS-\$31.50; US POST OFFICE-UTIL-UTILITY POSTAGE-\$1,200.00; UNITED PARCEL SERVICE INC-DELIVERY SERVICE-\$609.68; UNITED STATES POSTAL SERVICE-POSTAGE METER-APRIL-\$1,214.00; UPSTART-SUMMER PROGRAM SUPPLIES-\$208.95; US KIDS GOLF-GOLF CLUBS-\$296.98; USA BLUE BOOK-WRENCH-\$98.77; VESSCO INC-PARTS-\$702.06; VOGT'S-UNIFORM REPAIRS-\$4.00; WALT'S HOMESTYLE FOODS INC-SNACK FOODS-\$103.00; WATER & ENV

ENG RESEARCH CTR-TOC TEST-\$38.00; WEST COAST PROMOTIONS-SAFETY TOWN SUPPLIES-\$147.61; WESTERN OFFICE PRODUCTS-COPIER RENTAL-ELECTION-\$225.27; WHOLESALE SUPPLY INC-SNACK FOODS-\$1,225.10; WILSON CO-LOCKBOX BOOKS-\$637.00; WOHL'S PLUMBING & HEATING-PARTS-\$73.09; WORTMANN/CAROL-TAXES-\$143.39; XEROX CORPORATION-COPIER LEASE-\$4,101.06; YAGGIE'S INC-GRASS SEED-\$170.00; YANKTON AREA ARTS ASSN-1/2 SP APPROPRIATION-\$2,500.00; YANKTON INSURANCE AGENTS-INSURANCE POLICY-\$11,309.00; YANKTON JANITOR SUPPLY INC-SUPPLIES-\$916.16; YANKTON POLICE DEPARTMENT-PETTY CASH-\$44.40; YANKTON WINNELSON CO INC-WATER HEATER-\$399.41; ZIMCO SUPPLY COMPANY-CHEMICALS-\$3,613.19; ACE HARDWARE-SUPPLIES-\$67.93; ACS GOVERNMENT INF SERVICE-REPLACE CHECK-\$1,545.48; AMERICAN FAMILY LIFE CORP-CANCER & ICU PREMIUMS-\$5,443.98; AVERA HEALTH PLANS-HEALTH INS-MAY-\$72,168.53; BOMGAARS INC-POUND SUPPLIES-\$123.64; CASEY'S GENERAL STORE-MEETING-\$46.19; DELTA DENTAL-DENTAL INS-MAY-\$5,454.16; DEPT OF SOCIAL SERVICES-EMPLOYEE DEDUCTION-\$1,223.00; ELI/LOIS-ELECTION WORKER-\$51.29; FINANCE DEPT OF-ELECTION WORKERS-\$2,450.00; FIRST NATL BANK SOUTH DAKOTA-EMPLOYEE DEDUCTION-\$1,711.34; HAROLD'S CAMERA STORES-FILM DEVELOPMENT-\$59.16; ICMA RETIREMENT TRUST #457-EMPLOYEE DEDUCTION-\$4,314.56; JCPENNEYS-CLOTHING-\$413.67; K MART STORE #4813-POUND SUPPLIES-\$52.87; LONG LINES-REPLACE CHECK-\$9.80; MADISON NATIONAL LIFE INS CO-LIFE INSURANCE-MAY-\$622.15; MEDTOX DIAGNOSTICS INC-KITS-\$271.45; NEBRASKA CHILD SUPPORT PAYMENT-EMPLOYEE DEDUCTION-\$303.00; NITV-UPGRADE CUSA II-\$395.00; PITNEY BOWES-POSTAGE-\$236.74; PLS PROJECTOR LAMP SERVICE INC-PROJECTOR LAMP-\$250.00; POOLER/JOHN-ELECTION WORKER-\$170.00; RETIREMENT SD-SD RETIREMENT-APRIL-\$55,564.40; RETIREMENT SD-SYSTEM 401(A)SPECIAL PAY-\$4,646.79; SCHOLASTIC BOOK CLUBS INC-SAFETY TOWN-\$40.00; SDSRP-EMPLOYEE DEDUCTION-\$125.00; SUMMIT ACTIVITY CENTER-EMPLOYEE DEDUCTION-\$554.25; TRK HOSTING LLC-WEB HOSTING-\$68.85; UNITED WAY-EMPLOYEE DEDUCTION-\$56.00; VISA-PARTS-\$28.01; VISA-COMPUTER HARDWARE-\$113.90; VISA-UNIFORM-\$153.69; VISA-CD-\$17.90; VISA-ASSOCIATION DUES-\$154.30; VISA-CONFERENCE-\$85.19; VISA-CLASSIFIED AD-\$200.00; VISA-PART-\$40.80; VISA-TRAINING-\$547.75; WAL-MART STORES INC-CAMERA-\$564.30; WESTERN OFFICE PRODUCTS-INK CARTRIDGES-\$138.26; YANKTON COUNTY TREASURER-TAXES-\$509.58;

Roll Call: All members present voting "Aye;" voting "Nay;" None.

Motion adopted.

SALARIES-APRIL, 2009:

ADMINISTRATION-\$28,872.50; FINANCE-\$25,527.09; POLICE-\$122,539.82; FIRE-\$9,249.47; ENGINEERING-\$39,198.37; STREET-\$37,912.44; SNOW & ICE-\$898.08; TRAFFIC CONTROL-\$1,757.91; LIBRARY-\$25,156.11; PARKS/SAC-\$49,227.18; MARNE CREEK-\$2,770.93; WATER-\$32,779.88; WASTEWATER-\$27,465.83; CEMETERY-\$2,729.46; SOLID WASTE-\$14,335.37; LANDFILL-\$14,977.58; GOLF COURSE-\$14,992.06; CENTRAL GARAGE-\$6,422.99.

PERSONNEL CHANGES & NEW HIRES:

New Hires: Andrew Henrickson-\$7.25 hr.-Golf; David Hosmer-\$1384.62 bi-wk.-City Attorney; Jarinda Sudbeck-\$8.00 hr.-Rec. Div.; Kristi Waller-\$15.00 gm.-Rec. Div.; Sue Wendte-\$7.25 hr.-Golf.
Wage Increase: Rebecca Haas-\$8.10 hr.-Parks Div.

Mayor Specht read a proclamation declaring May 16 through 22, 2009, as *National Safe Boating Week in Yankton*.

City Manager Russell submitted a written report giving an update on community projects and items of interest.

Action 09-127

Moved by Commissioner Wenande, seconded by Commissioner Knoff, that the following items on the consent agenda be approved.

1. Permission for Alcoholic Beverages
Consideration of a request from Eva Orr to carry in and serve alcoholic beverages at the City Hall Gymnasium for a wedding reception on April 24, 2010.
2. Permission for Alcoholic Beverages
Consideration of a request from Crystal Mensch to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a wedding on July 11, 2009.
3. Permission for Alcoholic Beverages
Consideration of a request from Holly Arends to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a conference on September 11, 2009.
4. Permission for Alcoholic Beverages
Consideration of a request from Lori Simonsen to carry in and serve alcoholic beverages at the Dakota Territorial Capitol Building for a reception on May 30, 2009.

Roll Call: All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 09-128

This was the time and place for the public hearing on the application for the transfer of location of a Retail (on-sale) Liquor License for January 1, 2009, to December 31, 2009, from Jay Deb Enterprises, Inc. (Jay Deitloff, owner) d/b/a Waterfront, 201 Capital Street building only to 201 Capital Street Lot lines, Yankton, South Dakota. (Memorandum 09-79) No one was present to speak for or against approval of the license application. Moved by Commissioner Gross, seconded by Commissioner Carda, to approve the license application.

Roll Call: All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 09-129

This was the time and place for the public hearing on the application for the transfer of location of a Retail (on-off sale) Malt Beverage License for July 1, 2008, to June 30, 2009, from Jay Deb Enterprises, Inc. (Jay Deitloff, owner) d/b/a Waterfront, 201 Capital Street building only to 201 Capital Street Lot lines, Yankton, South Dakota. (Memorandum 09-80) Moved by Commissioner Knoff, seconded by Commissioner Carda, to approve the license application.

Roll Call: All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 09-130

Moved by Commissioner Gross, seconded by Commissioner Carda, to adjourn Sine Die at 7:11 p.m.

Roll Call: All members present voting "Aye"; voting "Nay": None.

Motion adopted.

City Attorney Hosmer administered the Oath of Office to re-elected City Commissioners Carda and Knoff, and newly elected Commissioner Akland.

In absence of a Mayor, City Finance Officer Viereck called the meeting to order.

Roll Call: Present: Commissioners Akland, Carda, Ellingson, Gross, Knoff, Lowrie, Specht, VanDerhule, and Wenande. City Attorney Hosmer and City Manager Russell were also present.

Absent: None.

Quorum present.

Finance Officer Viereck requested nominations for Office of the Mayor for the 2009-2010 term.

Action 09-131

Commissioner Ellingson nominated Commissioner Specht for the Office of Mayor, seconded by Commissioner Carda.

Commissioner Lowrie nominated Commissioner Gross for the Office of Mayor, seconded by Commissioner VanDerhule.

No other nominations were presented for consideration. A roll call vote was then taken on nominations for Mayor.

Roll Call: Members present voting for Commissioner Specht for the position of Mayor for the 2009-2010 term: Commissioners Akland, Carda, Ellingson, Knoff, Specht, and Wenande; members voting for Commissioner Gross for the position of Mayor for the 2009-2010 term: Commissioners Gross, Lowrie, and VanDerhule.

Motion adopted to elect Commissioner Specht as Mayor for the 2009-2010 term.

Finance Officer Viereck turned the meeting over to Mayor Specht at this time.

Action 09-132

Moved by Commissioner Ellingson, seconded by Commissioner VanDerhule, to approve Change Order Number 2 from A&R Construction Company, Plainview, Nebraska, for the Chan Gurney Airport Apron Project-Phase II. Change order No. 2 decreases the contract total by \$132,998.80 for a new total of \$439,351.80 and extends the completion date of the project by 20 working days.

(Memorandum 09-76)

Roll Call: All members present voting "Aye;" voting "Nay:" None.

Motion adopted.

Action 09-133

Moved by Commissioner Gross, seconded by Commissioner Carda, to adopt Resolution 09-22.

(Memorandum 09-77)

RESOLUTION 09-22

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING CERTAIN

**REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE
REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR
THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM
AND RETIREMENT OF THE REVENUE BOND.**

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system of waterworks for the purpose of providing water and water supply for domestic, municipal, and industrial purposes; or any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized to issue revenue bonds to fund improvements, extensions and additions to its drinking water system by SDCL 9-40-6 and is authorized to pledge the net income or revenues from the system to secure such bonds; and,

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

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

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. Declaration of Necessity and Determination of Facilities Financed. The City desires and hereby determines it is necessary to construct improvements to its drinking water facilities within its System, as described in Exhibit A hereto (the "Project"). The City hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the City and its inhabitants, and will make the City unable to comply with state and federal law. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-3A, and the federal Safe Drinking Water Act, and the nature of the improvements financed, the City hereby determines that the Project will substantially benefit the entire System and all of its users within the meaning of SDCL 9-40-15 and SDCL 9-40-17. Therefore, the City hereby determines that for the purposes of the Act, including, in particular, SDCL 9-40-17, the net income or revenues of the entire System, as extended, added to, or improved by the Project shall be deemed to be the net income or revenues available to be pledged to the payment of the bond issued hereunder.
2. Approval of Loan. The City hereby determines to finance up to \$3,000,000 of the costs of the Project through the issuance of a utility revenue bond (the "Revenue Bond"), and other funds secured by the City.

3. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is attached hereto, between the City as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the Mayor and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the City deems appropriate and approves, for and on behalf of the City. The Mayor and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the City set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.
4. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed \$3,000,000 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the Mayor, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the City, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The Mayor and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in SDCL 9-40-19.
5. Paying Agent/Registrar. The Revenue Bond shall be payable at the office of The First National Bank in Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar.
6. Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.
7. System Fund Accounts. For the purpose of application and proper allocation of the income of the System and to secure the payment of principal of and interest on the Revenue Bond, the following funds, mandatory asset segregations, shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:
 - (a) System Revenue Account. There shall be deposited in the System Revenue Account as received the entire gross revenues derived from the operation of the System collected pursuant to the Ordinances of the City of Yankton, South Dakota (the "Rate Ordinance") including future improvements, enlargements, extensions and repairs thereto (the "Gross Revenues"). Moneys from the System Revenue Account shall be transferred periodically into separate funds and accounts as provided below.
 - (b) Operation and Maintenance Fund. There shall be established the General Operation and Maintenance Account. Out of the remaining revenues of the System Revenue Account after application described in (c) and (d) below, there shall be set aside each month into the General Operation and Maintenance Account, a sum sufficient to provide for the payment of the next month's current expenses of administration and operation of the remainder of the System and such current expenses for the maintenance thereof as may be necessary to preserve the remainder of such System in good repair and working order. The term current expenses shall be construed to include all reasonable and necessary costs of operating,

repairing, maintaining and insuring the System, including without limitation salaries, supplies and rent, but shall exclude General Depreciation Account and System Debt Service Account.

- (c) System Debt Service Fund. Out of the revenues in the System Revenue Account, there shall be set aside no later than the 25th day of each month into the fund designated System Debt Service Account, a sum sufficient to provide for the payment as the same becomes due of the next maturing principal and interest on, the Revenue Bond and any reserve determined by the City Commission to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and other amounts payable on the following January 15, April 15, July 15, or October 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.
- (d) Depreciation Fund. There shall be established a General Depreciation Account. Out of the revenues of the System Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the City Commission to be a proper and adequate amount for repair and depreciation of the System.
- (e) General Surplus Fund. There shall be established the General Surplus Account. Revenues remaining in the System Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the General Surplus Account. If at any time there shall exist any default in making any periodic transfer to the System Debt Service Account, the City Commission shall authorize the City Finance Officer to rectify such default so far as possible by the transfer of money from the General Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

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

- i. To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes pre-payable according to its terms;
- ii. To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the System Debt Service Account and the Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:
- iii. To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be pre-payable according to their terms; or
- iv. To be used for any other authorized municipal purpose designated by the City Commission.

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

8. Pledge of Revenues. The Revenue Bond, together with the interest thereon, shall not constitute a charge against the City's general credit or taxing power, but shall be a limited obligation of the City payable solely out of the System Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of and interest on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The City covenants and agrees to charge rates for all services from the System or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the System, and depreciation, and the Rate Ordinance or Rate Resolution shall be revised from time to time so as to produce these amounts. The City hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the City set forth in this Section 8 or any other covenant or agreement in the Loan Agreement.
9. Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, Additional Bonds payable from revenues and income of the System may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The City shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.
10. Tax Matters.
 - (a) General Covenant. The City covenants and agrees with the registered owners from time to time of the Revenue Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Revenue Bond to become includable in gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended ("the Code") and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the basic interest on the Revenue Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.
 - (b) Certification. The Mayor and the Finance Officer, being the officers of the City charged with the responsibility for issuing the Revenue Bond pursuant to this Resolution are hereby authorized and directed to execute and deliver to the District a certificate in accordance with the provisions of section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Revenue Bond, it is reasonably expected that the proceeds of the Revenue Bond will be used in a manner that would not cause the Revenue Bond to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.
 - (c) Information Reporting. The City shall file with the Secretary of the Treasury a statement concerning the Revenue Bond containing the information required by Section 149(e) of the Code.
 - (d) Qualified Tax-Exempt Obligations. Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the Revenue Bond as "qualified tax-exempt obligations" for purposes of

Section 265(b)(3) of the Code. The City hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265 (b) (3) of the Code and including "qualified 501 (c) (3) Bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the City and all "subordinate entities" of the City in 2009 in an amount greater than \$30,000,000.

11. General Covenants.

- (a) The City hereby covenants and agrees with the District and other owners of the Revenue Bond that it will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.
- (b) The City agrees and covenants that it will promptly construct the improvements included in the Project.
- (c) The City covenants and agrees that pursuant to SDCL 9-40-28 and SDCL 9-40-29, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the System and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal and interest on the Revenue Bond, and the City agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the City.
- (d) The City covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to SDCL 9-40-19.
- (e) The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the City, so long as the Bond and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the City's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.
- (f) In the event of mismanagement of the System, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of

the Revenue Bond, or if the revenues of the System are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the City hereby consents to the appointment of a receiver pursuant to SDCL 9-40-33, and agrees that the receiver will have the powers set forth therein, and in SDCL 9-40-34 and SDCL 9-40-35 to operate and administer the System, and charge and collect rates as described therein.

12. Financing Agreement Issuance. The City hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to SDCL 9-40-15 no election is required to issue the Revenue Bond.
13. Principal Forgiveness. The City shall request to have up to 10% of the total principal amount of the Loan forgiven by the District. The City officials are directed to cause the compliance with the following deadlines:
 - (a) Submit complete plans and specifications for the Project to the Department on or before October 1, 2009;
 - (b) Advertise for bids and open bids for the project in accordance with SDCL Chapter 5-18 on or before December 10, 2009;
 - (c) Submit the bid of the apparent lowest bidder to the Department for review on or before December 21, 2009; and
 - (d) Award construction contracts on or before January 15, 2010.
14. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.
15. Authorization of City Officials. The Mayor, Finance Officer, City Attorney and City officials shall be and they are hereby authorized to execute and deliver for and on behalf of the City any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.
16. Definitions. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.
17. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

Action 09-134

Moved by Commissioner Gross, seconded by Commissioner Wenande, to authorize the Mayor to sign the engagement letter with Williams and Company, P.C., Yankton, South Dakota, authorizing them to perform the 2008 City of Yankton Annual Financial Audit and to direct staff to send said letter to the Department of Legislative Audit for their approval. (Memorandum 09-78)

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

Action 09-135

Ruby Goeden was present to request assistant from the City to help defray costs to cleanup a mold problem in the attic area of the Cramer-Kenyon House. Ms. Goeden explained that the County and City are being asked to split the \$3,457.00 cost of the cleanup. Moved by Commissioner VanDerhule, seconded by Commissioner Lowrie, to approve the request from Cramer-Kenyon House for additional funding to take care of the mold problem with BBB funds be used to pay for the City's share of the cost. (Memorandum 09-81)

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

Action 09-136

Moved by Commissioner VanDerhule, seconded by Commissioner Carda, to adjourn into Executive Session at 7:37 p.m., to discuss pending litigation and contractual matters.

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

Regular meeting of the Board of City Commissioners of the City of Yankton was reconvened by Mayor Specht.

Roll Call: Present: Commissioners Carda, Ellingson, Knoff, Lowrie, Murphy, VanDerhule, and Wenande. City Attorney Hosmer and City Manager Russell were also present. Absent: Commissioner Gross.
Quorum present.

Action 09-137

Moved by Commissioner Wenande, seconded by Commissioner Ellingson, to suspend rules and add New Business Items 5 and Number 6 to the Agenda.

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

The Department of Transportation Press Release regarding the possible use of American Recovery and Rehabilitation Act (ARRA) funds to rehabilitate the Meridian Bridge was discussed.

Yankton citizen Phyllis Thornton was present to request information on the process to allow camping on her property located at 1210 East 8th Street. Commissioners directed staff to assist Mrs. Thornton with routing her request through the Planning Commission.

Action 09-138

Moved by Commissioner Knoff, seconded by Commissioner VanDerhule, to adjourn at 8:24 p.m.

Roll Call: All members present voting "Aye;" voting "Nay:" None.
Motion adopted.

Dan Specht
Mayor

ATTEST:

Al Viereck
Finance Officer