

**EXECUTIVE SESSION/REGULAR MEETING, March 12, 2007**

The Regular Session of the Deadwood City Commission convened on March 12, 2007, at 5:00 p.m. in the Deadwood City Commission Chambers, 102 Sherman Street, Deadwood, South Dakota. Mayor Toscana called the meeting to order with the following members present: Department Heads and Commissioners Nyla Griffith, Mark Speirs and Georgeann Silvernail. Commissioner Klamm was absent. All motions passed unanimously unless otherwise stated.

**APPROVAL OF MINUTES**

Silvernail moved, Griffith seconded, to approve the minutes of March 5, 2007. Roll Call: Aye-All. Motion carried.

**APPROVAL OF DISBURSEMENTS**

Silvernail moved, Speirs seconded, to approve the March 12, 2007 disbursements and the revised invoice for Triple K Tire. Roll Call: Aye-All. Motion carried.

5-STAR AUDIO-VIDEO	VANDAL/COLOR DOME;TRANSMITTER,	1,968.68
A & B WELDING	CANISTER RENT/C25	7.20
ABC	HP COLOR TONERS 02/09/07	375.00
ALCO STORES, INC.	GROCERY 02/16/07	9.36
BLACK HILLS CHEMICAL	TOWELS-TISSUE-KLEENEX	615.57
BLACK HILLS ELEVATOR, LLP	MONTHLY SERVICE FEBRUARY	91.84
BLACK HILLS PIONEER	NEUTRINO DAY AD/REC CENTER	30.00
BLACK HILLS POWER & LIGHT	RAMP UTILITIES JAN-FEB 2/15/07	4,509.52
BLACK HILLS PURE, INC.	HOT & COLD COOLER RENTAL 3/1	9.50
CHARLES TURBIVILLE	REIMBURSEMENT RAMP PRINTER	84.79
COSMOPOLITAN	SUBSCRIPTION RENEWAL 26 ISSUES	36.14
CULLIGAN	COOLER RENTAL/PARKS SHOP	107.00
DECKERS	BATTERIES 2/17/07	47.43
DELAHOYDE'S PAINT & BODY	LABOR ON 2007 DODGE DURANGO	583.00
ELAN FINANCIAL SERVICES	ELAN FINANCIAL SERVICES	1,220.00
EMERY-PRATT COMPANY	BOOKS 02/12/07	279.31
FASTENAL COMPANY	T-ROD-NUTS-BOLTS/LEE ST.PRIV	108.70
FREDERICKSON LAW OFFICE,	PFEBRUARY FEES	2,633.75
GATEWAY COMPANIES INC.	GATEWAY 10/10/06	3,919.00
GOLDEN WEST TECHNOLOGIES,	PAGER AIR TIME/STREETS & WATER	82.00
HEIMAN FIRE EQUIPMENT	PROTECH 8 GLOVE(9) 1/15/07	470.00
HEWLETT-PACKARD COMPANY	DVDROM DRV (5) 2/18/07	450.00
J.P. TOWING	2004 DURANGO TOWED 3/5/07	50.00
JACOBS PRECISION WELDING	REC TUBING 3/1/07	178.60
KIP MAU	REIMBURSE DEDUCTIBLE 2006	750.00
LAWSON PRODUCTS, INC.	DRILLS-GLASSES-TAPE REMOVER	162.92
LEAD-DEADWOOD GIRL'S SOFTB	DONATION 2007 SEASON	200.00
LEE, JAMES	SAFETY REIMBURSEMENT/JIM LEE	138.80
LIGHT AND SIREN	2 DUAL WINDSHEILD;WARNING	1,591.78
MCGANN ASSOCIATES INC.	TICKET ETP (240) 2/21/07	3,298.12
MONTANA DAKOTA UTILITIES	LIBRARY 02/23/07	561.51
NAPA AUTO PARTS	MASKING TAPE, ETCHING PRIMER	2,288.18
NELSON, MARY JO	FINANCE OFFICER CONF.-REIMBURS	585.00
NORTHWEST PIPE FITTINGS,	IGATE VALVE... 2/14/07	186.08
OCCUPATIONAL HEALTH	OCCUPATIONAL HEALTH NETWORK	972.00
ONE CALL SYSTEMS, INC.	LOCATE REQUEST TICKET	6.00
ORIENTAL TRADING CO.,	ORIENTAL TRADING CO 2/8/07	139.56
PITNEY BOWES INC	POSTAGE REFILL 03/05/07	500.00
POWERPLAN	SOCKET	54.01
PRAIRIE WAVE	PHONE-INTERNET/FIRE DEPT.	248.17
PUBLIC FINANCIAL MANAGEMEN	FINANCIAL ADVISORY FEES 2/15/0	500.00
RAPID DELIVERY	DELIVERY SERVICES	25.20
SD STATE TREASURER	SALES TAX DUE FOR 02/2007	3,954.39
SD DEPARTMENT OF MOTOR VEH	TITLE & PLATES 2005 4-WHEELER	26.00
SDN COMMUNICATIONS	TWO LINE COMMUNICATION	346.80
SERVALL UNIFORM AND LINEN	CREDIT MEMO	1,007.47
SIoux PIPE & EQUIPMENT	VALVE-PARTS/LEE STREET PRV	4,020.99
SOUTH DAKOTA HUMANITIES CO	2007 FESTIVAL OF BOOKS-POETRY	5,000.00
SOUTH SIDE SERVICE	AIR FILTER, OIL 2/2/07	174.85
TDG COMMUNICATIONS	PARTI DE CHOCOLAT POSTERS	60.00
TIM CONRAD ELECTRIC	REPAIR LIGHTS AT LIBRARY 2/10	45.92
TRIPLE K TIRE & REPAIR	LABOR & TIRE DISPOSAL	1,077.44
TWIN CITY ANIMAL SHELTER	DONATION	73.15
TYLER WORKS - INCODE	TRAINING 2/14 & 2/16/07	360.00
US POST OFFICE	2007 PRESORT MAILING FEE #3	160.00
USA BLUEBOOK	REPLACEMENT FLAG	37.73
WASTE CONNECTIONS, INC.	DUMPSTER/PARKS SHOP	251.61
<b>GRAND TOTAL</b>		<b>\$46,670.07</b>

**ITEMS FROM CITIZENS ON AGENDA**

**Sound Permit – Northern Hills CASA Program**

Silvernail moved, Speirs seconded, to approve the sound permit and waive the fee for the annual CASA “Light of Hope” event to be held on April 3, 2007 from 7:00 to 8:00 p.m. in the courtyard beside the Post Office. Roll Call: Aye - All. Motion carried.

## EXECUTIVE SESSION/REGULAR MEETING, March 12, 2007

### PUBLIC HEARINGS/BID OPENINGS

#### Public Hearing – St. Patrick’s Day

Silvernail moved, Griffith seconded, to allow the relaxation of the open container ordinance from noon to 10:00 p.m. on March 17, 2007 on Main Street from Four Aces to the Masonic Temple. Roll Call: Aye - All. Motion carried.

Silvernail moved, Griffith seconded, to approve the street closure on March 17, 2007 on Main Street from Four Aces to Masonic Temple from 7:00 p.m. to 8:00 p.m. for the St. Patrick’s Day parade. Roll Call: Aye - All. Motion carried.

#### Public Hearing – Northern Hills Team Roping Event

Speirs moved, Griffith seconded, to approve the relaxation of open container ordinance on July 6-8, 2007 for Northern Hills Classic Team Roping event at Days of 76 complex. Roll Call: Aye - All. Motion carried.

#### Public Hearing – Deadwood Men’s Softball Tournaments

Silvernail moved, Speirs seconded, to approve special retail (on-off sale) malt beverage license for the 2007 Deadwood Men’s Softball Tournaments on May 25-27, 2007, July 20-22, 2007, and September 1-2, 2007. Roll Call: Aye - All. Motion carried.

#### Public Hearing – Liquor/Malt Beverage License Transfer

Griffith moved, Silvernail seconded, to approve transfers for two (2) retail (on-sale) liquor, two (2) retail (on-off sale) malt beverage and one (1) package (off-sale) liquor license transfers from Full House, Inc. to Gold Dust Gaming, Inc. located at 661, 663, 665 and 668 Main Street. City Attorney John Frederickson recommended approving said licenses contingent upon the Finance Officer receiving the signed Affidavit of sale. Roll Call: Aye – All. Motion carried.

#### Set Bid Opening – Three (3) Retaining Walls

Silvernail moved, Speirs seconded, to set a bid opening on March 26, 2007 at 5:10 p.m. for the demolition and reconstruction of retaining walls located at 29 Adams, 45 and 47 Forest and 308 Williams. Roll Call: Aye - All. Motion carried.

#### Set Bid Opening – Concrete Panels

Griffith moved, Silvernail seconded, to set a bid opening on April 16, 2007 at 5:15 p.m. for the concrete panels on Lower Main Street project. Roll Call: Aye - All. Motion carried.

### FINANCE/HISTORIC PRESERVATION/LIBRARY

#### Discussion – Part-Time Holiday Pay

Finance Officer Mary Jo Nelson explained there has been some confusion when paying part-time and seasonal employees for holidays. Currently, the City pays summer employees who work full-time for holidays not worked; Memorial Day, July 4<sup>th</sup> and Labor Day. The City pays anyone who works a holiday double time and-a-half, no matter if they are part-time or seasonal. Nelson said we currently do not pay (per policy manual) Trolley, Parking Ramp and Rec Center employees for holidays not worked because they are not scheduled to do so. She suggested that we leave things as they are and pay those part-time employees that are scheduled to work for holidays not worked, as it only affects approximately six employees. Griffith moved, Silvernail seconded, to pay the part-time and seasonal employees according to the policy manual. Roll Call: Aye - All. Motion carried.

#### Resolution 2007-06

Mary Jo Nelson explained these documents are an administrative amendment that consolidates all of the bonded projects since 1991. She stated that since the City originally bonded in 1991, legal description/properties have been added by this same process numerous times. This insures the City complies with the bond agreement. The City may now use bonded funds for the Rec Center and Rodeogrounds, which were two items budgeted in 2007. Silvernail moved, Speirs seconded, to approve Resolution 2007-06, Exhibit A, Fourth Amendment to Ground Lease, and Ninth Amendment to Lease Purchase Agreement. Roll Call: Aye – All. Motion carried.

**EXECUTIVE SESSION/REGULAR MEETING, March 12, 2007**

**RESOLUTION NO. 2007-06**

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A NINTH AMENDMENT TO LEASE-PURCHASE AGREEMENT AND A FOURTH AMENDMENT TO GROUND LEASE AND EASEMENT AGREEMENT; APPROVING AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

BE IT RESOLVED by the City Commission of the City of Deadwood, South Dakota (the City), as follows:

Article I. **RECITALS**

Section 1.01 As authorized by South Dakota Codified Laws, Section 9-12-1 and Sections 9-40-34 through 9-40-40, inclusive, as amended (the Act), the City has entered into a Lease-Purchase Agreement, dated as of November 1, 1990, as amended to and including an Eighth Amendment to Lease-Purchase Agreement, dated as of December 15, 2005, and by several administrative amendments thereto (as so amended, the Original Lease Agreement), with The First National Bank in Sioux Falls, in Sioux Falls, South Dakota (the Trustee), for the purpose of financing certain historic restoration and preservation projects (referred to herein as the Facilities) described on Exhibit A to the Original Lease Agreement.

Section 1.02 The City has previously joined in, with the Trustee, a Declaration of Trust, dated as of November 1, 1990, as amended to and including a Ninth Supplemental Declaration of Trust, dated as of December 15, 2005 (as so amended, the Trust Agreement).

Section 1.03 The Trustee, at the direction of the Lessee, issued Certificates of Participation in a Lease-Purchase Agreement, pursuant to the Trust Agreement of which the Certificates of Participation in a Lease-Purchase Agreement, Series 1999, Certificates of Participation in a Lease-Purchase Agreement, Series 2000, Certificates of Participation in a Lease-Purchase Agreement, Series 2003, Certificates of Participation in a Lease-Purchase Agreement, Series 2004, Certificates of Participation in a Lease-Purchase Agreement, Series 2005, Certificates of Participation in a Lease-Purchase Agreement, Series 2006, each evidencing proportionate interests in the right to receive Lease Payments remain Outstanding.

Section 1.04 The City has agreed with the Trustee, that the Trustee has, on certain interests in real property (the Premises) which it has acquired from the City pursuant to a Ground Lease and Easement Agreement, dated as of November 1, 1990, as amended to and including the Third Amendment to Ground Lease and Easement Agreement, dated as of December 1, 1999, and by an administrative amendment (as so amended, the Original Ground Lease), caused the Facilities to be acquired and constructed and has leased and agreed to sell the Facilities to the City pursuant to the Original Lease Agreement.

Section 1.05 The City has found it desirable to amend the Original Lease Agreement and the Original Ground Lease (the Documents) for the purpose of consolidating, clarifying and updating the Exhibit A to each of the Documents which consists of descriptions of the Premises (also referred to in the Documents as the Land) and the Facilities (also referred to in the Documents as the Projects) undertaken with respect to the Documents. A copy of the proposed Exhibit A is attached hereto.

Section 1.06 Forms of the following documents relating to the Facilities will be prepared and submitted to the City and, when received, are hereby directed to be filed with the Finance Officer:

- (a) a Fourth Amendment to Ground Lease and Easement Agreement (the Fourth Amendment to Ground Lease), proposed to be made and entered into between the City and the Trustee.
- (b) a Ninth Amendment to Lease-Purchase Agreement, proposed to be made and entered into between the City and the Trustee (the Ninth Amendment to Lease);

Article II. **FINDINGS**

On the basis of information given the City to date, it is hereby found, determined and declared that it is desirable and in the best interest of the City to enter into the Fourth Amendment to Ground Lease and the Ninth Amendment to Lease (collectively, the Amended Documents).

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Article III. AUTHORIZATION

The Mayor, Finance Officer, and City Attorney are hereby authorized and directed to execute and deliver the Amended Documents. Execution and delivery of such documents by the Mayor and Finance Officer shall constitute evidence that such items are consistent with the terms of this resolution and have been duly authorized, executed and delivered by the City and are enforceable against the City in accordance with their terms, subject to customary exceptions relating to bankruptcy, reorganization, insolvency and other laws affecting creditors' rights. The Mayor, Finance Officer, and City Attorney are further authorized to take such other actions as may be required to effectuate the terms and intent of this resolution. In the event of the absence or disability of the Mayor and Finance Officer, the acting Mayor or assistant Finance Officer are hereby authorized to act in their place and stead and to take all actions and execute all documents approved hereby.

Article IV. AMENDMENT

This Resolution may be amended in order to clarify or modify its provisions by administrative resolution adopted by the City Commission.

Article V. EFFECTIVE DATE

This Resolution is necessary for the immediate support of the municipal government and its existing public institutions, wherefore an emergency exists. This Resolution shall take effect upon the passage and publication thereof.

CITY OF DEADWOOD

/s/ Francis A. Toscana, Mayor

ATTEST:

/s/ Mary Jo Nelson, Finance Officer

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Discussion Part-Time Wages

Silvernail moved, Speirs seconded, to table the discussion on part-time wages. Roll Call: Aye - All. Motion carried.

Payment Request – Legal Service

Griffith moved, Speirs seconded, to allow the Finance Office to pay \$2,254.50 to Gunderson, Palmer, Goodsell and Nelson for legal services rendered in connection with a zoning issue regarding paving the Kellar parking lot. Roll Call: Aye - All. Motion carried.

STREETS/WATER

Employee Resignation – WASP

Speirs moved, Silvernail seconded, to accept the resignation of Janel Blotz Rubble site employee, effective March 31, 2007 and to advertise for a replacement. Roll Call: Aye - All. Motion carried.

POLICE/FIRE

Training Graduation Request

Silvernail moved, Speirs seconded, to allow Kelly Fuller and staff to attend Law Enforcement Training Graduation on March 30, 2007, requesting the use of a vehicle. Roll Call: Aye – All. Motion carried.

Training Request

Silvernail moved, Speirs seconded, to allow Kip Mau and Greg Nelson to attend Pharmaceutical Diversion Investigation Training in Rapid City on April 26, 2007, requesting the use of a vehicle and lunch. Roll Call: Aye – All. Motion carried.

Training Request

Silvernail moved, Speirs seconded, to allow Kip Mau to attend School Resources Officer Training in Sioux Falls June 10-14, 2007, requesting \$148 for meals and lodging, the school will pay half of the expenses. Roll Call: Aye – All. Motion carried.

**EXECUTIVE SESSION/REGULAR MEETING, March 12, 2007**

**PARKS/RECREATION**

Discussion – Rec Center Expansion/Set Public Hearing

Commissioner Griffith informed the Commission that a letter and survey has been prepared to send to all Deadwood residents requesting their input on the proposed addition to the existing Rec Center. Toscana added partial funding for this project would come from Historic Preservation funds since the City would use the existing Rec Center and add on to the tennis courtside of the building. He said the costs for this project are preliminary at this point, the City is not committing to any expenditure at this time, and they would like the residents to comment on this proposed project. Griffith moved, Silvernail seconded, to set a public hearing on April 2, 2007 at 5:15 pm at Deadwood City Hall for the proposed Rec Center expansion. The Finance Office will collect the surveys. Roll Call: Aye – All. Motion carried.

Advertise for Employees – Rec Center

Griffith moved, Silvernail seconded, to allow the advertising for two (2) summer employees for the Rec Center Summer Camp program and one (1) permanent part time employee at the Rec Center. Roll Call: Aye – All. Motion carried.

Purchase Request – Parks Department

Griffith moved, Speirs seconded, to approve the purchase of the Toro Z500 zero turn mower from the Chain Saw Center for \$8,030, a budgeted item. Roll Call: Aye – All. Motion carried.

Payment Request – Easter Egg Hunt

Griffith moved, Silvernail seconded, to authorize the expenditure of \$300 for prizes and candy for an Easter Egg Hunt at Gordon Park, to be paid from the Bed and Booze fund. Griffith said depending on the crowd size, Rotary Park might be used for the smaller children. Roll Call: Aye – All. Motion carried.

**LEGAL BUSINESS**

Sign Purchase Agreement – Ken Kellar (Continued 3/5/07)

Silvernail moved, Griffith seconded, to allow the Mayor to sign the agreement between the City of Deadwood and Ken Kellar to purchase School Lot 9 at a cost of \$45,000. Roll Call: Aye – All. Motion carried.

Executive Session

City Attorney John Frederickson requested a brief Executive Session for personnel matters with no action following the regular meeting.

**ITEMS FROM MAYOR, COMMISSIONERS, DEPARTMENT HEADS NOT ON AGENDA**

Thanks to the Fire Department for the Pancake Feed

Commissioner Silvernail and Mayor Toscana thanked the Fire Department for the pancake feed held on March 11, 2007. Fire Chief Trent Mohr said members of the DVFD were pleased to announce that all proceeds (\$1,000) from the pancake feed were donated to Jacob Galbraith to help with medical expenses.

Executive Session

Commissioner Silvernail requested a brief Executive Session for personnel matter with no action following the regular meeting.

**ADJOURNMENT**

Toscana moved, Speirs seconded, to adjourn the regular session at 5:40 p.m. The next regular meeting will be at 5:00 p.m. on Monday, March 19, 2007.

ATTEST:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Mary Jo Nelson, Finance Officer

BY: \_\_\_\_\_  
Francis A. Toscana, Mayor