

EXECUTIVE SESSION/REGULAR MEETING, April 27, 2009

The Regular Session of the Deadwood City Commission convened on April 27, 2009 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, Mike Klamm, Joe Peterson, and Georgeann Silvernail. Commissioner Lenny Schroeder was absent. All motions passed unanimously unless otherwise stated.

APPROVAL OF MINUTES

Silvernail moved, Klamm seconded, to approve the minutes of April 20, 2009. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS

Klamm moved, Silvernail seconded, to approve the April 27, 2009 disbursements. Roll Call: Aye-All. Motion carried.

1ST PHOTO	PRINTS	14.00
A & B BUSINESS	LEASE	618.84
ABC	SUPPLIES	87.80
ADAMS MUSEUM	ALLOCATION	9,185.86
AINSWORTH-BENNING	CONTRACT	130,215.31
ALLTEL	BAG PHONES	275.00
BH POWER	ELECTRICITY	11,334.80
BH PURE	WATER	13.25
BH WINDOW	CLEANING	579.00
CCC	GRANT	3,846.79
CULLIGAN	WATER	22.50
DAKOTA BUSINESS	LEASE	60.34
DAKOTA GRAPHICS	SUPPLIES	240.00
DEADWOOD CHAMBER	BILL LIST	17,533.00
DEADWOOD DEVELOPMENT	SYMPOSIUM RENTAL	750.00
ENERGY ELECTRIC	REPAIR	481.20
FARMER BROTHERS	SUPPLIES	32.86
FIRST WESTERN BANK	LOAN DISB	4,287.00
FOOTHILLS SEED	SUPPLIES	220.80
GUSTAFSON BUILDERS	SLIME PLANT	176,704.38
HOLIDAY INN	CONFERENCE	210.00
JACOBS WELDING	PIPE	177.52
LAWSON PRODUCTS	SUPPLIES	32.81
LEHMEN CONSTRUCTION	GRANT	10,818.00
MILOS, GEORGE	LOAN DISB	400.00
NATIONAL TRUST	TRAINING	12,808.00
NEVE'S	BOOTS	262.40
NH SHRINE CIRCUS	SPONSOR	3,500.00
NORTHWEST PIPE	SUPPLIES	185.08
OFFICE DEPOT	SUPPLIES	109.79
PETTY CASH	SYMPOSIUM	200.00
PITNEY BOWES	INK	81.98
QWEST	PHONE	118.45
SDASRO	REGISTRATION	30.00
SERVALL	SUPPLIES	92.20
SKYLINE ENGINEERING	BOILER	1,944.00
SDGHRA	REGISTRATION	50.00
SDGFOA	REGISTRATION	150.00
SD HISTORICAL	BOOKS	116.55
SUMMIT	SIGNS	89.00
TOMS, DON	PROJECT	576.00
TRIPLE K	TIRES	56.00
TURNBULL	REPAIR	600.00
TWIN CITY HARDWARE	SUPPLIES	102.26
ZEP	SUPPLIES	185.08
	TOTAL	\$389,397.85

ITEMS FROM CITIZENS ON AGENDA

Update on Gott Street/Williams Street Residents

Mayor Toscana reported that he had talked with Bill Hudson, a previous Public Works Director, who had worked for the City since the 70's. Mr. Hudson agreed that they had done periodic work in the Gott Street area and mostly upon request. David Thompson, 80 Williams St., stated that he and his father would prefer to leave it as an easement. He asked for reverification that emergency vehicles would be able to use the easement as needed, which was verified by Attorney Campbell. Mr. Thompson also stated that he and his father would like to have the signage as proposed at the May 20, 2009 Commission Meeting. Public Works Director Jim Raysor said they could have the signs installed within two weeks. In response to the continuing question of how Gott Street will be recognized by the City, it was agreed to continue to treat the street as the way it is being used today, rather than how it is platted, for future maintenance. Klamm moved, Peterson seconded that Gott St. officially ends at Mrs. Conrad's property line and extends no further for purposes of City services. Roll Call: Aye-All. Motion carried.

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PUBLIC HEARINGS/BID OPENINGS

Set Public Hearing

Silvernail moved, Peterson seconded, to set a public hearing at 5:10 p.m. on June 1, 2009 for the 2009-2010 Malt Beverage License renewals. Roll Call: Aye-All. Motion carried.

Review Rec Center Price/Set Bid Opening

A representative of TSP presented schematics of the proposed new addition and renovation to the Rec Center. James Benning with Ainsworth-Benning Construction, current construction manager at risk, proposed an amendment for the guaranteed maximum price for the project at \$5,670,000, which is \$90,000 under the net available, and set a substantial completion date of July 1, 2010. He explained that they will manage the project but will be publicly bidding all packages for construction of the facility, and will bid on certain packages themselves. Silvernail moved, Klamm seconded, to set a bid opening for the Rec Center Renovation project at 2:00 p.m. on May 20, 2009 and bring the results to the City Commission on Tuesday, May 26, 2009. Roll Call: Aye-All. Motion carried. The contract will be presented for approval, after review by the City Attorney, at the next Commission meeting on May 5, 2009.

Bid Opening

Keven Kuchenbecker, Historic Preservation Officer, opened the following bids for hillside stabilization on Forest Avenue:

W D Masonry and Concrete - \$51,038.40 - No Bid Bond

Dennis Forgey Construction - \$33,045.65 - Bid Bond enclosed

Silvernail moved, Peterson seconded to accept the bid from Forgey Construction for \$33,045.65. Roll: Aye-All. Motion carried.

FINANCE

Payment Request

Peterson moved, Silvernail seconded, to approve the payment to South Dakota Assurance Alliance of \$2,249.75 for physical damage on two fire trucks and sweeper. Coverage extended to 9-27-2009 to coincide with existing policy. Roll Call: Aye-All. Motion carried.

Ordinance #1117 - Second Reading

There being no changes or comments subsequent to first reading, Peterson moved, Silvernail seconded, to approve second reading of Ordinance #1117- 2009 Supplemental Budget Appropriation Ordinance for Historic Preservation. Roll Call: Aye-All. Motion carried.

Adoption of Policy

Peterson moved, Silvernail seconded, to approve the adoption of the City of Deadwood Identity Theft Policy, effective May 1, 2009. Roll Call: Aye-All. Motion carried.

Employee Resignation

Peterson moved, Silvernail seconded, to accept the resignation of Broadway Parking Ramp employee Larry Pierce and approve the payment of two hours of labor. Roll Call: Aye-All. Motion carried.

Adoption of Policy

Peterson moved, Silvernail seconded, to approve the adoption of the City of Deadwood Cell Phone Policy for the Employee Handbook and adopt per diem taxable rates for cell phone allowances at \$50 per month to the following individuals: Kevin Kuchenbecker, Jim Raysor, Kelly Fuller, Albert Kryger, Donovan Renner, Keith Umenthum, Bob Nelson Sr., and Bill Burleson. Roll Call: Aye-All. Motion carried.

HISTORIC PRESERVATION/PLANNING & ZONING/PUBLIC BUILDING/SAFETY

Purchase Request

Silvernail moved, Klamm seconded, to approve the purchase of two (2) 32" flat screen televisions for the Visitors Centers at Siever Street and Mt. Moriah at total cost, including installation, not to exceed \$2000.00, to be paid from the Public Education line item. Roll Call: Aye-All. Motion carried.

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Contract - Sabo Construction

Silvernail moved, Peterson seconded, to allow the Mayor to sign the contract with Sabo Construction to install storm sewer from Selby Street to Forest Avenue for hillside stabilization at a cost not to exceed \$4900.00. Pipe from Public Works Department will be used. City Attorney will prepare easement for property owner to sign. Roll Call: Aye-All. Motion carried.

Chinatown Archeological Collection

Mike Runge, City Archivist, explained that the remodel project is a joint effort for storage for the Police, Finance, Public Works, and Historic Preservation departments. Silvernail moved, Klamm seconded, to approve the City Hall basement remodel project, allow the use of Bonded Funds for this project, and prepare a Resolution for May 4, 2009 Commission meeting. Roll Call: Aye-All. Motion carried.

Hire Request

Silvernail moved, Klamm seconded, to approve the hiring of Mark Speirs to paint the porch at the Adams House at a cost of \$1,500, to be paid from Historic Preservation Capital Asset line item for Adams House. Roll Call: Aye-All. Motion carried.

STREETS/WATER/LIBRARY

Apply for Stimulus Funds

Silvernail moved, Klamm seconded, to approve the application for a South Dakota Department of Transportation Stimulus Funds to build a pedestrian sidewalk from Railroad Street to traffic signal near Four Aces, total approximate cost of \$60,875, and allow the City to pay for design at a cost of \$7,700. Roll Call: Aye-All. Motion carried.

POLICE/FIRE

Terminate Program

Klamm moved, Silvernail seconded, to terminate the Lead-Deadwood High School Internship Program. Roll Call: Aye-All. Motion carried.

Rural Fire Assistance Grant

Klamm moved, Silvernail seconded, to allow the Deadwood Fire Department to apply for Rural Fire Assistance Grant (City match \$270.80) and the Volunteer Fire Assistance Grant (City match \$1,704.00.) Roll Call: Aye-All. Motion carried.

Hire Request

Klamm moved, Silvernail seconded, to approve the hiring of Alexandria Lindemann as seasonal ordinance officer at \$13.23 per hour, 90% of prevailing wage, effective May 11, 2009. Roll Call: Aye-All. Motion carried.

PARKS/RECREATION/TROLLEY

Summer Stimulus Internship Grant Program

Silvernail moved, Klamm seconded, to allow the Mayor to sign the application for the South Dakota Department of Labor Summer Stimulus Internship funding for the summer of 2009. Staff would paint fences along Pioneer Way. Roll Call: Aye-All. Motion carried.

Use of Trolley

Silvernail moved, Klamm seconded, to allow the use of a trolley to transport passengers from a designated parking lot in Lead to the Homestake Opera House for school concert on May 5, 2009. Roll Call: Aye-All. Motion carried.

LEGAL

Contract - Lead-Deadwood School District

Klamm moved, Silvernail seconded, to allow the Mayor to sign the Swimming Pool contract between the City of Deadwood and the Lead-Deadwood School District for 2009. Roll Call: Aye-All. Motion carried.

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Contract - Deadwood Economic Development

Klamm moved, Peterson seconded, to allow the Mayor to sign the contract between the City of Deadwood and Deadwood Economic Development Corporation for the management of the Broadway Parking Ramp. Roll Call: Aye-All. Motion carried.

Four Aces - Parking Lease Renewal

Attorney Campbell explained that the expiring lease rate was \$62.50 per month per space, while the current lease rate is \$125.00. It was agreed that the City Attorney should update the contract with Four Aces at the \$125.00 rate, as recommended by the Parking and Transportation Committee. If they accept, it will be brought to the next Commission meeting for approval.

Resolution 2009-07

Silvernail moved, Klamm seconded, to approve Resolution 2009-07 to Adopt Procedures for Appeals Hearings for Appeal to Building Code Enforcement Decisions in the City of Deadwood. Roll Call: Aye-All. Motion carried.

**RESOLUTION 2009-07
RESOLUTION TO ADOPT PROCEDURES FOR APPEALS HEARINGS FOR APPEAL TO
BUILDING CODE ENFORCEMENT DECISIONS IN THE CITY OF DEADWOOD**

WHEREAS, the Deadwood City Commission is charged with protecting the health and safety of the citizens of the City of Deadwood, including all property situated therein; and

WHEREAS, the Deadwood City Commission has adopted the 2003 International Property Maintenance Code ("IPMC") by virtue of enacting its City Ordinance 15.01.010; and

WHEREAS, the decisions by the Deadwood City Building Inspector are subject to appeal within such IPMC; and

WHEREAS, the Appeal Board needs procedures to follow for the orderly administration of its proceedings, now, therefore,

BE IT RESOLVED, that the Deadwood City Commission does hereby enact this resolution, effective immediately, and adopts the following procedures for the appeal process regarding the appeal of IPMC decisions by its Building Inspector:

IPMC Appeal Hearing Procedure.

A. Open Hearing. The hearing shall be open to the public and shall be recorded either by mechanical or manual means. Parties may represent themselves or may be represented by legal counsel.

B. Evidence. Specifically, opportunity shall be afforded all parties to respond and present evidence and argument regarding the following:

- i) true intent of the code cited by the building inspector,
- ii) the rules legally adopted thereunder have been incorrectly interpreted by the building inspector,
- iii) the provisions of the code do not fully apply, or
- iv) the requirements of the code are adequately satisfied by other means.

All issues not pertaining to the preceding list shall be determined to be irrelevant and shall be excluded.

Generally, irrelevant, immaterial or unduly repetitious evidence may be excluded. A finding shall be based upon the kind of evidence on which reasonable prudent persons are accustomed to rely for the conduct of their serious affairs. Strict compliance with the rules of evidence are not required, but all evidence must be relevant to the matter at hand. The Appeals Board shall give effect to the rules of privilege recognized by law. Objections to the evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

C. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

D. Witnesses at the hearing, or available persons whose testimony has been submitted in written form, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

E. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

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F. The chairperson of the Board or his or her designee shall conduct the hearing and have power to administer oaths. The Board may cause subpoenas to be issued for such witnesses and the production of such books and papers as either party may designate. The subpoenas may be signed by the chairperson of the Board.

G. No hearing shall be valid unless a majority of the Board is present and no decision at the hearing shall be valid and binding unless reached by a majority of all members of the Board.

H. Decision. The Board shall file its decision with the City Public Works Department. Appeal of the Appeals Board's decision shall be by judicial review by the Circuit Court for Lawrence County, South Dakota, and shall be filed within twenty (20) days from the date of the Appeals Board's decision.

Date: April 27, 2009

City of Deadwood
/s/ Francis A. Toscana, Mayor

ATTEST:

/s/ Mary Jo Nelson, Finance Officer

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EXECUTIVE SESSION REQUEST

Following the request by Attorney Campbell, Silvernail moved, Peterson seconded, to hold an executive session following the meeting for a legal matter, with no action to be taken.

Roll Call: Aye-All. Motion carried

MAYOR'S BUSINESS

Proclamation

Mayor Toscana read a proclamation proclaiming the month of May 2009 as Historic Preservation Month in the City of Deadwood, and invited citizens to attend the 7th Annual Historic Preservation Symposium May 1-3, 2009 at the Masonic Temple.

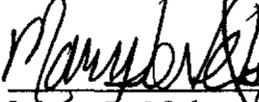
ITEMS FROM MAYOR, COMMISSIONERS, DEPT. HEADS NOT ON AGENDA

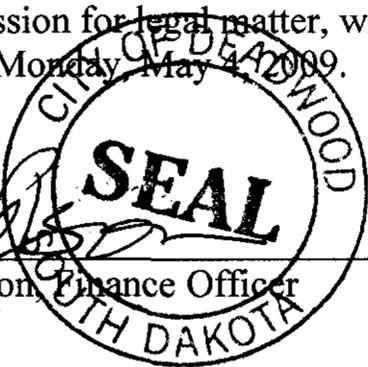
Keith Robison, owner of the vacant lot on the corner of Lincoln and Jackson Streets, presented the Commission with pamphlets of pictures and descriptions of his complaints about the snow removal policy on his property. He stated that for years he had allowed the City to pile snow on his lot during snow removal. However, last year he came back after a storm to find that his sidewalk was again covered by snow from City removal, which his snowblower couldn't handle, and then later he received a bill from the City for its removal of that snow. That bill was eventually added to his property tax assessment. In summation, he feels that he should be reimbursed for that bill because the City placed the snow there in quantities that he was unable to remove with his equipment. After much discussion, Mayor Toscana stated that we would research the bill and contact him.

ADJOURNMENT

Toscana moved, Silvernail seconded, to adjourn the regular session at 6:00 p.m. and convene into Executive Session for legal matter, with no action to be taken. The next regular meeting will be at 5:00 p.m. on Monday, May 4, 2009.

ATTEST:


Mary Jo Nelson, Finance Officer



DATE: 5/4/09

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

