

REGULAR MEETING, August 11, 2008

The Regular Session of the Deadwood City Commission convened on August 11, 2008 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, Lenny Schroeder, and Georgeann Silvernail. All motions passed unanimously unless otherwise stated.

CONDOLENCES

On behalf of the Commission and City of Deadwood, Mayor Toscana extended condolences to Sarah Solano and family for the passing of her son Nathan Solano.

APPROVAL OF MINUTES

Silvernail moved, Schroeder seconded, to approve the minutes of August 4, 2008. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS

Klamm moved, Schroeder seconded, to approve the August 11, 2008 disbursements. Roll Call: Aye-All. Motion carried.

A & B BUSINESS	COPIES/MAINT. CONTRACT/JUNE	23.90
A & B WELDING	CANISTER RENTAL	49.28
ABC	SUPPLIE	206.40
ACTIVE DATA SYSTEMS	SERV-CANON MS800	225.00
ALCO	SUPPLIES	94.82
BIRDSALL SAND & GRAVEL	CREDIT INVOICE	91.05
BH CHEMICAL	SUPPLIES	1,768.69
BH ELEVATOR, LLP	JUNE RAMP ELEVATOR MAINT	192.86
BH PIONEER	COMMUNITY PROMO AD	234.00
BH POWER & LIGHT	ELECTRICITY	36.61
BH PURE, INC.	#5 GAL H2O	61.25
CONRADS BIG "C" ELECTRIC	REPLACE POLES-PHOTOEYES-LABOR	424.72
CULLIGAN	DISPENSER RENTAL	112.50
DAKOTA BUSINESS CENTER	MAINTENANCE CONTRCKOTAGRAPHIC	25.80
DEADWOOD ELECTRIC	REPAIRS	51.02
EMERY-PRATT COMPANY	BOOKS	332.17
FARMER BROTHERS CO	SUPPLIES	136.39
FOOTHILLS SEED, INC.	SEEDING BALL FIELDS	785.00
GOLDEN WEST TECHNOLOGIES,	PAGER AIR TIME	532.63
HAWKINS CHEMICAL INC.	CHEMICALS-POOL	335.64
HEWLETT-PACKARD COMPANY	COMPUTER-LIBRARY	2,917.00
HILLSIDE DISPOSAL	ROLL-OFF DUMPSTERS/DUMP	660.00
INTEGRITY FORD	CMPTR DIG, TURBOCHRGR, ACTUATOR	1,981.46
INTERSTATE BATTERIES	BATTERIES	879.38
JACOBS PRECISION WELDING	ALUM PLATE-REPAIR LT POLE	221.76
KODET ARCHITECTURAL GROUP,	ARCHITECTURAL SERVICES/REC	16,951.08
LESTER, ROB	RALLY FOOD REIMBURSE	440.41
MAVERICK ENTERPRISES	SUPPLIES/SUMMER CAMP-RC	24.24
MIDWEST TAPE	9 DVD'S	440.90
NAPA	SWITCH	2,000.82
NEVE'S	SINGLE STAR	9.54
NJS ENGINEERS	AS-BUILT DRAWINGS/MH WATERLINE	175.00
NORTHWEST PIPE	EPOXY COATED EXTENSION/HYD.	495.32
RAPID DELIVERY	DELIVERY SERVICE	18.20
RUSHMORE TRAVEL	PLANE TICKET/UMENTHUM	439.00
SDN COMMUNICATIONS	TWO WAY COMMUNICATION LINE	346.80
SERVALL	MATS-MOPS-BAGS	902.46
SKYLINE ENGINEERING LLC	ENGINEERING/PAVILION BOILER RE	5,940.00
SD STATE TREASURER	SALES TAX JULY 2008	6,311.60
SOUTH SIDE	OIL, FILTER, FLUID	736.90
SPEARFISH HUSKY	TRIMMER LINE-CHAINS	262.20
STRETCH'S	PLUNGER LOCK	101.45
STURDEVANT'S	EXT. SPRING	3.89
SUMMIT SIGNS	PREPRINTED SIGNS	19.50
THOMSON WEST	INFORMATION CHARGES	289.80
TRIPLE K	MASTER SWITCH, SOLENOID	167.97
TWILIGHT FIRST AID	SUPPLIES	406.10
TWIN CITY HARDWARE	SUPPLIES	38.48
USA BLUEBOOK	FIRE HYDRANT ENAMEL RED	107.21
UZ ENGINEERED PRODUCTS	SUPPLIES	351.88
WASTE CONNECTIONS, INC.	PARKS DUMPSTER/DUMPING	961.19
WAUPACA NORTHWOODS LLC	BARK/CITY PARK FLOWER BEDS	569.40
WHISTLER GULCH CAMPGROUND	(2) WORK CAMPER SITES/AUGUST	2,500.00

TOTAL

\$ 53,390.67

ITEMS FROM CITIZENS ON AGENDA

Resolution 2008-23 - Notice of Intent to Levy

Silvernail moved, Klamm seconded, to approve Resolution 2008-23 Notice of Intent to Levy Business Improvement Districts 1-6 Taxes for 2009 and set a public hearing at 5:15 p.m. on October 14, 2008. Roll Call: Aye-All. Motion carried.

**RESOLUTION NO. 2008- 23
RESOLUTION OF INTENT TO
CONTINUE BUSINESS IMPROVEMENT DISTRICTS, AND
ESTABLISH THE LEVY OF THE BUSINESS OCCUPATION TAX,
AND ESTABLISH RATES FOR 2009 FOR BUSINESS IMPROVEMENT DISTRICTS**

WHEREAS, Business Improvement Districts Nos. 1-6 have been created and Business Improvement District Boards appointed since August of 1990 and re-appointed and continued through the current date; and

WHEREAS, such Business Improvement Districts Boards have recommended and the City Commission has accepted plans and occupation tax assessments for the calendar years 1991 through 2008; and

WHEREAS, such Business Improvement District Boards have recommended and the City Commission has accepted plans to incorporate District 4-1 into District 1, District 4-2 into District 2, District 4-3 into District 3, District 4-5 into District 5, and leaving District 4 vacant, but reserving District 4 for future use; and

WHEREAS, the Business Improvement District Boards have recommended continuation of Business Improvement Districts Nos. 1, 2, 3, 5, and 6 and have recommended the amount of the Business Occupation Tax Levy for 2009; and

WHEREAS, the raising of revenue for the 2009 Business Improvement Districts by use of occupation tax and the establishment of rates shall be fair and equitable,

NOW, THEREFORE, BE IT RESOLVED by the City of Deadwood that the City hereby declares its intent to continue Business Improvement Districts No. 1, 2, 3, 5, and 6 with the boundaries of the Districts to be continued as follows:

Business Improvement District No. 1: All hotels, motels, lodging establishments and gaming establishments located on both sides of Main Street between and including 607 Main Street to 709 Main Street.

Business Improvement District No. 2: All other hotels, motels and lodging establishments located within the City of Deadwood in which gaming devices are located, and the following additional properties:

- | | | |
|--------------------|---|-----------------------|
| 555 Main Street | - | Tin Lizzie |
| 560 Main Street | - | Deadwood Gulch Saloon |
| 27 Deadwood Street | - | Deadwood Inn |
| 29 Lee Street | - | Bourbon Street II |

Business Improvement District No. 3: All hotels, motels, lodging establishments, and bed and breakfast establishments within the City of Deadwood, which do not have gaming devices.

Business Improvement District No. 5:

- | | | |
|-------------------|---|-------------------------|
| 10 Pine Street | - | VFW |
| 460 Main Street | - | McKenna's Gold |
| 9 Lee Street | - | Wooden Nickel |
| 37 Sherman | - | Martin Mason Bldg 1 & 2 |
| 55 Sherman Street | - | Deadwood Dicks |

Business Improvement District No. 6: Each gaming establishment leasing a city nickel device:

- | | | |
|-------------------|---|------------------|
| 557 Main Street | - | Tin Lizzies |
| 360 Main Street | - | Cadillac Jacks |
| 688 Main Street | - | Gold Dust Gaming |
| 250 Main Street | - | First Gold |
| 69 Sherman Street | - | A.G. Trucano |

BE IT FURTHER RESOLVED that the City of Deadwood declares its intent to establish 2009 Occupation Tax Levies as follows:

1) The estimated monies to be raised and carried over by the Business Improvement Districts in 2009 is \$582,125.00; The estimated costs for the expenses, improvements, activities, and promotions within the Business Improvement Districts are as follows:

A. **Business Improvement Districts No. 1, 2, 3, 5, and 6:**

Administrative and legal expenses	\$ 20,000.00
Deadwood Chamber of Commerce and Visitors Bureau - Marketing	\$ 542,125.00
Contingency Fund	\$ 20,000.00
TOTAL	\$ 582,125.00

2) The imposition of the General Occupation Tax for the five Districts for 2009 shall be as follows:

A. **District No. 1:** Tax at the rate of \$110.00 per year or \$5.50 per year per square foot for 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal five cent machines. Motels, hotels and bed and breakfast

REGULAR MEETING, August 11, 2008

establishments shall pay \$65.00 per year per room or \$.2166 per square foot per motel, hotel, or bed and breakfast lodging units using 300 square feet for each room.

B. District No. 2: Tax at the rate of \$100.00 per year or \$5.00 per year per square foot for 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal five cent machines. Motels, hotels, and bed and breakfast establishments shall pay \$50.00 per year per room or \$.1666 per square foot per motel, hotel, or bed and breakfast lodging units using 300 square feet for each room.

C. District No. 3: Motels, hotels, and bed and breakfast establishments shall pay \$35.00 per year per room or \$.117 per square foot per year per motel, hotel, or bed and breakfast lodging unit using 300 square feet for each room.

D. District No. 5: A tax at the rate of \$50.00 per year or \$2.50 per square foot on 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal five cent machines.

E. District No. 6: A tax at the rate of \$100.00 per year per square foot for 20 square feet for each city or municipal five cent (\$.05) gaming device located at the following businesses:

- Tin Lizzies - 557 Main Street
- Cadillac Jacks - 360 Main Street
- Gold Dust - 688 Main Street
- First Gold - 250 Main Street
- A.G. Trucano - 69 Sherman Street

3) That the levies shall be billed and collected monthly by the City Finance Officer with the annual levy to be paid in monthly installments due on the 10th day of each month beginning with the first installment due in the Finance Office on January 10, 2009 with a ten (10%) percent late charge to be added for all past due charges.

4) That the taxes as set forth in paragraph 2 above shall be determined by the number of games and video lottery machines licensed by the South Dakota Commission on Gaming and the South Dakota Lottery Commission as of the first day of January, 2009 for the first six months of 2009, and as of the first day of July, 2009, for the second six months of 2009, with adjustments to be made for the licenses added or deleted on the first day of the month following the addition or deletion.

BE IT FURTHER RESOLVED that amounts raised from the imposition of the occupation taxes set forth above are projected to be in the amount of Five Hundred Thirty-nine Thousand One Hundred Eighty-Five dollars for 2009 (\$539,185.00) Forty- Two Thousand Nine Hundred Forty Dollars (\$42,940.00) from a 2008 projected carryover, and that said amount will yield revenues in the amount of Five hundred eighty-two thousand One Hundred and Twenty Five Dollars (\$582,125.00). **BE IT FURTHER RESOLVED** that a hearing shall be held before the City Commission of the City of Deadwood, South Dakota, on the 14th day of October, 2008, at 5:15 p.m., at the City Commission Chambers, located at 102 Sherman Street in the City of Deadwood, South Dakota, to consider the business occupation tax levy for 2009. The City Finance Officer shall give notice of the hearing by mailing a complete copy of this Resolution of Intent to each occupant or user of space or property owner located in the proposed Districts at least thirty (30) days prior to the public hearing.

Dated this 11th day of August, 2008.

ATTEST: CITY OF DEADWOOD
/s/ Mary Jo Nelson, Finance Officer /s/ Francis Toscana, Mayor
* * * * *

PUBLIC HEARINGS/BID OPENINGS

JP Towing Lease

No one spoke in opposition to the City's intent to lease a portion of the City Cold Storage building located at 10 Timm Lane to accommodate towed and wrecked vehicles on a temporary basis for JP Towing. Silvernail moved, Klamm seconded, to enter into a lease between the City of Deadwood and JP Towing. Silvernail moved, Klamm seconded, to approve Resolution 2008-22 Resolution of Intent and direct City Attorney to prepare a contract. ~~Dollar amount of lease was not determined.~~ JP Towing to provide a copy of their Liability Insurance certificate to the Finance Office. Roll Call: Aye- All. Motion carried.

RESOLUTION NO. 2008-22
RESOLUTION OF INTENT
TO ENTER INTO A LEASE WITH A PRIVATE PERSON
WITH JP TOWING FOR TEMPORARY STORAGE TOWED & WRECKED VEHICLES AT
COLD STORAGE BUILDING

WHEREAS, the City of Deadwood owns the Cold Storage Building located at 10 Timm Lane in Deadwood; and

WHEREAS, there is sufficient room in the Cold Storage building to accommodate towed and wrecked vehicles on a temporary basis for JP Towing business operated by Pat and JoAnn Eastman; and

REGULAR MEETING, August 11, 2008

WHEREAS, pursuant to SDCL 9-12-5.2, a hearing was held before the City Commission of the City of Deadwood, South Dakota, on Monday the 11th day of August, 2008 at 5:10 p.m., in the Commission Chambers located at 102 Sherman Street, Deadwood, South Dakota, to consider the adoption of this Resolution of Intent; now therefore,

BE IT RESOLVED by the City of Deadwood that the City hereby declare its intent to enter into a lease with a private person for the purpose of temporary storage for JP Towing in the Cold Storage building at 10 Timm Lane, Deadwood, South Dakota.

Dated this 21st day of July, 2008.

CITY OF DEADWOOD

ATTEST:

/s/ Francis Toscana, Mayor

/s/ Mary Jo Nelson, City Finance Officer

* * * * *

Public Hearing - 58 Pleasant (Continued 8-4-2008)

Property owners were not present at the meeting. Jim Raysor informed the Commission that he provided a list to Pam Sullivan of items that were collected but to date has heard no reply. City Attorney Jason Campbell research the possibility of the City selling the salvageable items to recoup the costs the City has invested in the collection of these items and could find no authority for the City to do so. Campbell suggested that Raysor continue dialogue with the Sullivan's and with the City Attorney to reach a recommendation with all parties involved. Silvernail moved, Klamm seconded, to follow the recommendation made by Campbell. Roll Call: Aye- All. Motion carried.

Accept or Reject Rec Center Bids (held on July 22, 2008)

Jim Raysor explained to the Commission that due to lack of funding and after removing most of the amenities from the low bid he recommended rejecting the low bid from Ainsworth Benning. Per state law, Raysor had attempted to negotiate with the low bidder who was within 10% of the engineer's estimate, but could only reduce cost to \$6.9 million. This amount is still over available resources with no room for possible change orders. Mayor Toscana stated he realizes this is a disappointment for the community and said the Parks and Rec Board would review other options. Silvernail moved, Peterson seconded, to reject the low bid from Ainsworth Benning. Roll Call: Aye- All. Motion carried.

Bid Results - Deadwood Mountain Grand Facade

Mayor Toscana informed the Commission of the bid opening that was held on Monday, August 11, 2008 at 2:00 p.m. at City Hall for the Deadwood Mountain-Slime Plant Facade. Mayor Toscana explained that the City of Deadwood has an understanding that the City would contribute up to \$1.7 million (bonded funds set aside by Historic Preservation) toward the renovation of the facade, regardless of ownership. Kevin Kuchenbecker informed the Commission that three (3) bids were received. The bids are as follows:

**Deadwood Mountain Grand - Slime Plant Facade
Bid Opening - August 11, 2008 at 2:00 p.m.
at Deadwood City Hall
Bid Tabulation**

Bidders	Scull Construction	Gustafson Builders	Ainsworth Benning
Bid Security	Bid Bond	Bid Bond	Bid Bond
Addendum Received	1-5	1-5	1-5
Base Bid	\$1,887,700.00	\$1,539,000.00	\$1,819,500.00
Alternate No.1 Leave portion of existing west wall as shown on plans.	+\$7,500.00	-\$20,000.00	+\$150,000.00
Unit Price No. 1 Price per square foot to remove and replace unsound existing wood sheathing as necessary.	+\$4.00 sq ft	+\$7.00 sq ft	+\$12.00 sq ft
Unit Price No. 2 Excavation as required to remove soil materials from the southwest corner of the Slime Plant Facade as required to expose the existing Facade and perform work as per Base Bid.	+\$25.00 cu yd	+\$6.00 cu yd	+\$20.00 cu yd

Kuchenbecker recommended to the Commission to accept the low bid from Gustafson Builders. Peterson moved, Silvernail seconded, to accept the low bid from Gustafson Builders for \$1,539,000.00 with a possible deduction of \$20,000.00 to be determined later. Roll Call: Aye- All. Motion carried.

REGULAR MEETING, August 11, 2008

FINANCE

Bond Counsel - Deadwood Resorts LLC

Peterson moved, Silvernail seconded, to approve the hiring of Verlane Endorf of Dorsey and Whitney as bond counsel for Tax Increment Financing for the Deadwood Resorts, LLC convention center project. Roll Call: Aye- All. Motion carried.

HISTORIC PRESERVATION/PLANNING & ZONING/PUBLIC BUILDINGS/SAFETY

Change Order #2 - 20 Denver

Kevin Kuchenbecker informed the Commission that Lehmen Construction is requesting change order #2 due to the moving of the sewer and gas lines that run up the middle of the staircase. Silvernail moved, Klamm seconded, to approve the change order #2 for 20 Denver in the amount of \$2,876.50 and request an additional 10 days for final completion on August 30, 2008. Roll Call: Aye- All. Motion carried.

Final Plat - Deadwood Resorts, LLC-10 Pine Crest

Bernie Williams, Planning and Zoning Director informed the Commission that Deadwood Resorts, LLC (petitioner) are subdividing the land at 100 Pine Crest in order to transfer land, under the Convention Center, to the City of Deadwood. Deadwood Resort Lot 1A will be transferred to the City of Deadwood. Deadwood Resort Lot 2A will be used for the Lodge, gaming and private water park. Williams said the Planning and Zoning Commission approved the final plat at their August 6, 2008 meeting. Deadwood Resort Lot 1A and Deadwood Resort Lot 2A, being a replat of Deadwood Resort Lots 1 & 2, City of Deadwood, Lawrence County, South Dakota. Silvernail moved, Schroeder seconded, to approve the final plat for 100 Pine Crest. Roll Call: Aye- All. Motion carried.

STREETS/WATER

Hire Request

Schroeder moved, Klamm seconded, to approve the hiring of D & R Enterprises to repaint parking lots on Sherman, Miller, Railroad Street, and Lower Main lot for \$3,386.00, to be paid from Parking and Transportation. Roll Call: Aye - All. Motion carried.

Purchase Request

Schroeder moved, Klamm seconded, to approve the purchase of 5,550 gallons of premium fuel from Southside Standard at a cost of \$3.75 per gallon. Roll Call: Aye- All. Motion carried.

POLICE/FIRE

Hire Request

Klamm moved, Silvernail seconded, to approve the hiring of Tammy Kohler as full time Ordinance Officer, effective August 25, 2008 at \$12.34 (90% of prevailing wage) per hour, pending pre-employment drug screening. Roll Call: Aye- All. Motion carried.

PARKS/RECREATION/TROLLEY

Employee Resignation

Silvernail moved, Schroeder seconded, to accept the resignation of Hillary Havlik effective August 15, 2008. Roll Call: Aye - All. Motion carried.

Employee Termination

Silvernail moved, Peterson seconded, to terminate the employment of Elroy Morlock, effective August 7, 2008. Roll Call: Aye- All. Motion carried.

LEGAL

City Ticketing

City Attorney Jason Campbell informed the Commission that he received a memorandum from the Attorney General's Office referencing City ticketing authority. The Attorney General's opinion is that only state tickets may be issued on sections of state highways that run within City Limits. Chief Fuller and City Attorney Campbell support the Attorney General's position and asked that the Commission also do the same. According to Campbell, local police departments across the state will regulate speeds on state roads in town, and direct all fine money on to the state.

REGULAR MEETING, August 11, 2008

Silvernail moved, Klamm seconded, to firmly state that the City of Deadwood supports the actions of the Attorney General's office. Roll Call: Aye- All. Motion carried.

MAYORS BUSINESS

Resolution 2008-24 - Opposing Initiated Measure #10

Klamm moved, Silvernail seconded, to approve Resolution 2008-24 Opposing Initiated Measure #10, which would prohibit any city from paying dues to any association that lobbies. Roll Call: Aye- All. Motion carried.

**RESOLUTION 2008-24
OPPOSING INITIATED MEASURE #10**

Be it resolved by the City of Deadwood:

Whereas, Initiated Measure #10 would prohibit any city from paying dues to any association that lobbies;

Whereas, it is far more efficient and cost effective to join together with our fellow cities through the SD Municipal League for coordinated communication with the Legislature than to have each city stand along;

Whereas, the costs to the taxpayers of having each city to monitor, report, and travel to Pierre to participate in the Legislative Session would be much greater than any dues to the SD Municipal League;

Whereas, coordinated communication with Legislators leads to more efficiency in the Legislative process and has saved millions of dollars in taxpayer funds;

Whereas, restricting the ability of South Dakotans to support candidates and communicate with their elected public officials is a violation of their right to freedom of speech;

Whereas, the measure will be challenged in court and will most likely be found to be unconstitutional, costing millions of dollars in taxpayer money;

Whereas, Initiated Measure #10 does not limit State government-paid lobbyists, out-of-state lobbyists, or corporate lobbyists, but only stifles coordinated voices for local control;

Whereas, the City of Deadwood finds that municipal officials throughout South Dakota are dedicated, honest and ethical people with the best interests of their cities in mind and that cities take great pride in providing open, honest government to our citizens;

Whereas, the thousands and thousands of South Dakotans who do business with the State, Cities, Counties, and other governmental entities should not be penalized for providing such services;

Whereas, civic groups who work to better their community, and often require local funding to provide their services should not be prohibited from communicating their needs to local public servants;

Whereas, the forces supporting Initiated Measure #10 will not reveal the source of their funding, leaving the reasonable assumption that out of state special interests are once again attempting to hijack the South Dakota ballot and abuse our initiative process;

Therefore let it be resolved that the City of Deadwood strongly opposed Initiated Measure #10 and urges the citizens of South Dakota to vote "NO" on the measure.

Dated this 11th day of August, 2008.

CITY OF DEADWOOD

ATTEST:

/s/ Francis A. Toscana, Mayor

/s/ Mary Jo Nelson, Finance Officer

* * * * *

Fort Pierre to Deadwood Proclamation

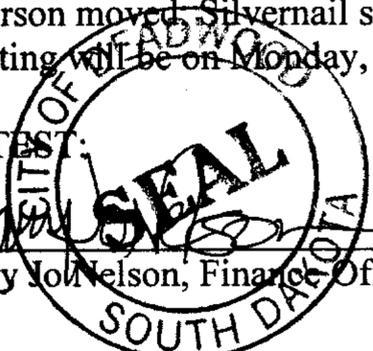
Mayor Toscana read a proclamation proclaiming August 15, 2008 as Fort Pierre to Deadwood Trail Ride in the City of Deadwood.

ADJOURNMENT

Peterson moved, Silvernail seconded, to adjourn the regular session at 5:40 p.m. The next regular meeting will be on Monday, August 18, 2008.

ATTEST:

DATE: 8-18-08


Mary Jo Nelson, Finance Officer

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