EXECUTIVE SESSION/REGULAR MEETING, October 13, 2009

The Regular Session of the Deadwood City Commission convened on October 13, 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, Lenny Schroeder and Georgeann Silvernail. All motions passed unanimously unless otherwise stated.

APPROVAL OF MINUTES
Silvernail moved, Klamm seconded, to approve the minutes of October 5, 2009. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS
Silvernail moved, Schroeder seconded, to approve the October 13, 2009 disbursements. Roll Call: Aye-All. Motion carried.

2009 SDAFC	CONFERENCE	60.00
A & B BUSINESS	MAINT	1,640.05
A & B WELDING	SUPPLIES	40.19
ABC	SUPPLIES	81.97
ALCO	SUPPLIES	19.99
ALEX HAMANN	REIMBRS	755.08
BH CENTRAL RESERVATIONS	4-QTR ALLOCATION	12,500.00
BH CHEMICAL	SUPPLIES	753.68
BH ELEVATOR	REPAIRS	1,887.76
BH PIONEER	ADVERTISE	10.00
BH POWER	UTILITIES	32.42
BH WEEKLY GROUP	PUBLICATIONS	652.24
CHANEY-MOODIE, JEANETTE	REIMBS	304.97
CREATIVE PRODUCT SOURCING	DARE-SHIRTS	375.10
CULLIGAN	WATER	94.00
DAKOTA GRAPHICS	CARDS	120.00
DEADWOOD ELECTRIC	REPAIRS-LIGHTS	3,520.57
EMERY-PRATT	BOOKS	158.06
ESRI	MAINT-1YR	12,005.48
FASTENAL	SUPPLIES	71.08
FOX, TERESA	INDEXING	3,700.00
HILLS MATERIALS	ASPHALT	4,302.11
I PROMOTE U	PROMO	423.08
JACOBS WELDING	STEEL PLATE	317.91
KEN HAWKI	REIMBRS	96.00
KEN'S CAMPER	PUTTY	41.90
KNOLOGY	PHONE	233.85
LAWSON PRODUCTS	SUPPLIES	368.59
LEAD DEADWOOD SANITARY	USAGE	26,123.18
LIGHTING PLASTICS	GLOBES	490.05
M & T FIRE	BOOTS	288.92
MAVERICK (BLONDIES)	SUPPLIES	22.93
MIDWEST TAPE	AUDIO BOOK	29.99
MDU	UTILITIES	306.57
NAPA	CABLE TERMINALS	2,744.47
NEBRASKA SALT	SALT	2,477.53
OCCUPATIONAL HEALTH	TESTING	739.00
PETE LIEN & SONS	CONCRETE	103.00
PONTIUS, JERRY	REIMBS	68.35
RENNER, DONOVAN	REIMB	158.99
SD SOLID WASTE MANAGEMENT	MEMBERSHIP	100.00
SDN COMMUNICATIONS	COMM LINE	346.80
SERVALL	SUPPLIES	1,234.62
WESTERN STATES FIRE	INSPECTION	205.00
ZEP	SUPPLIES	389.73
	TOTAL	**$ 86,859.28**

ITEMS FROM CITIZENS ON AGENDA

Sanford Lab Update
Bill Harlan appeared before the Commission to give an update on the Sanford Lab. Harlan said one of the founding members of the South Dakota Science and Technology Authority, Dave Bozied of Sioux Falls, passed away on October 7. Bozied had served on the SDSTA Board since its creation in August 2004, as chair and will be sadly missed. Governor Mike Rounds will appoint a replacement. Harlan said over 200 scientists representing seven national laboratories and from various places in the world met in Lead to plan a detailed course of construction for the National Science Foundation's Deep Underground Science and Engineering Laboratory to be built at the former Homestake Mine. The DUSEL team is going to larger groups of scientists. Harlan added that the water level is currently at 5,015-foot level. The DUSEL project received an additional $29 million at the end of September, which is crucial to the design of the lab.

Resolution 2009-23 - Notice of Intent to Levy
Silvernail moved, Schroeder seconded, to approve Resolution 2009-23 Notice of Intent to Levy Business Improvement Districts 1-6 Taxes for 2010 per SDCL 9-55-8. Silvernail moved, Klamm

seconded, to set a public hearing at 5:15 p.m. on November 16, 2009 and request that the Resolution of Intent to Levy be mailed to members, Roll Call: Aye-All. Motion carried.

RESOLUTION NO. 2009- 23
RESOLUTION OF INTENT TO
CONTINUE BUSINESS IMPROVEMENT DISTRICTS, AND
ESTABLISH THE LEVY OF THE BUSINESS OCCUPATION TAX,
AND ESTABLISH RATES FOR 2010 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 2009; and

WHEREAS, the Business Improvement District Boards have recommended continuation of Business Improvement Districts Nos. 1, 2, 3, 4, 5, and 6 and have recommended the amount of the Business Occupation Tax Levy for 2010; and

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, 4, 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 affiliated with or connected to or have common ownership with any gaming establishment or property 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. 4: All hotels, motels, lodging establishments, and gaming establishments located within the City of Deadwood applied to all gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the following businesses existing as of the date or this ordinance, and any future similar businesses meeting the same criteria. This will include the following businesses:

681 Main	-	Deadwood Frontier Club
635 Main	-	Buffalo/Bodega
635 Main	-	Bullock I and II
360 Main	-	Cadillac Jacks
625 Main	-	Celebrity Hotel
560 Main	-	Deadwood Gulch Saloon
250 Main	-	First Gold
531 Main	-	Four Aces/Hampton Inn
700 Main	-	Franklin
709 Main	-	Silverado
688 Main	-	Gold Dust
225 Cliff	-	Gulches of Fun Casino
685 Main	-	Hickok's
100 Pine Crest Lane	-	Lodge at Deadwood
604 Main	-	Lucky Nugget
677 Main	-	Midnight Star
605 Main	-	Mineral Palace
649 Main	-	Miss Kitty's
657 Main	-	Old Style/Saloon 10
196 Cliff	-	Super 8 Lodge
557 Main	-	Tin Lizzie
9 Lee	-	Wooden Nickel/Martin Mason

Business Improvement District No. 5:

10 Pine Street	-	VFW

Business Improvement District No. 6: Each gaming establishment leasing a city slot machine:

607 Main Street	-	Franklin/Silverado
557 Main Street	-	Tin Lizzies
360 Main Street	-	Cadillac Jacks

688 Main Street	-	Gold Dust Gaming
531 Main Street	-	Four Aces

BE IT FURTHER RESOLVED that the City of Deadwood declares its intent to establish 2010 Occupation Tax Levies as follows:

1) The estimated monies to be raised by the Business Improvement Districts in 2010 is $522,004.00; 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, 4, 5, and 6:

Administrative and legal expenses	$ 20,000.00
Deadwood Chamber of Commerce and Visitors Bureau - Marketing	$ 502,004.00
TOTAL	**$ 522,004.00**

2) The imposition of the General Occupation Tax for the five Districts for 2010 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 slot machines. Motels, hotels and bed and breakfast 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 slot 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. 4: Tax at the rate of $25.00 per year or $1.25 per square foot on 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal slot machines which shall be applied to all gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the following businesses existing as of the date or this ordinance, and any future similar businesses meeting the same criteria.

E. 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 slot machines.

F. 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 gaming device located at the following businesses:

Tin Lizzie's	-	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, 2010 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, 2010 for the first six months of 2010, and as of the first day of July, 2010, for the second six months of 2010, 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 Twenty-two Thousand and Four Dollars for 2010 ($522,004.00). **BE IT FURTHER RESOLVED** that a hearing shall be held before the City Commission of the City of Deadwood, South Dakota, on the 16th day of November, 2009, 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 2010. 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 13th day of October, 2009.

ATTEST:
/s/ Mary Jo Nelson, Finance Officer

City of Deadwood
Francis A. Toscana, Mayor

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Resolution 2009-24
Silvernail moved, Klamm seconded, to approve Resolution 2009-24 Notice of Intent to Continue Business Improvement District No. 7 to Levy Occupancy Taxes for 2010 per SDCL 9-55-8. Silvernail moved, Klamm seconded, to set a public hearing at 5:20 p.m. on November 16, 2009 and request that the Resolution of Intent to Levy be mailed to members. Roll Call: Aye-All. Motion carried.

RESOLUTION NO. 2009-24
RESOLUTION OF INTENT TO CONTINUE
BUSINESS IMPROVEMENT DISTRICT NO. 7

WHEREAS, the City of Deadwood has received a recommendation by the Board of Business Improvement District No.7 pursuant to SDCL 9-55 as amended, requesting the City of Deadwood adopt a Resolution of Intent to continue a Business Improvement District and impose an occupational tax on the transient guests of hotels and motels within the City of Deadwood ; and

WHEREAS, it appearing to the City of Deadwood that the proposed district is being created to fund some of the following public projects and activities from January 1, 2010 through December 31, 2010:

Projected revenue of $425,000.00 budgeted as follows:

$405,000.00 Marketing
$ 20,000.00 Legal/Administrative
$425,000.00 Total Budget

NOW THEREFORE, BE IT RESOLVED by the City of Deadwood that the City hereby declares its intent to continue Business Improvement District No. 7, with the boundaries of District No. 7 to be the city limits of Deadwood, and any annexations thereto, including but not limited to the following listed lodging establishments and any lodging establishments not listed but which are established in the future which shall automatically become a part of this district and be included within such boundaries, but excluding any bed and breakfast establishments:

76 Bullock Express	68 Main Street
Best Western Hickok House	137 Charles Street
Black Hills Inn & Suites	Hwy. 385 South
Branch House	37 Street
Bullock I,II,III	635 Main Street
Butch Cassidy Suites	57 Sherman Street
Cadillac Jack's	360 Main Street
Cedarwood Inn	103 Charles Street
Celebrity Hotel	625 Main Street
Comfort Inn/Gulches of Fun	305 Cliff Street
Deadwood Dicks Suites	51 Sherman Street
Hickoks Hotel	685 Main Street
Hickok's Iron Horse Inn	27 Deadwood Street
Deadwood Gulch Resort	10 Timm Lane
First Gold	270 Main Street
Four Aces/Hampton Inn	531 Main Street
Franklin Hotel	700 Main Street
Gold Country Inn	801 Main Street
Holiday Inn Express	22 Lee Street
Martin and Mason Hotel	37 Sherman
Mineral Palace	605 Main Street
Penny Motel	818 Main Street
Super 8	196 Cliff Street
Terrace Motel	250 Main Street
The Lodge at Deadwood	100 Pine Crest
The Mint	638 Main Street
Thunder Cove Inn	311-315 Cliff Street

BE IT FURTHER RESOLVED that the City of Deadwood declares its intent to continue an occupational tax levy to be imposed on transient guests renting rooms in the above-described hotels and motels or lodging establishments. The amount of the tax shall be Two Dollars ($2.00) per occupied room per night, which shall not apply or be imposed on any transient guest who has been offered a room by a lodging establishment on a complimentary basis and no fee or rent was charged for such room. This method for raising revenue shall be fair and equitable.

The total estimated or proposed costs for the above projects and activities is projected to be Four Hundred and Twenty-Five Thousand Dollars ($425,000.00) from the revenues from this occupancy tax upon rooms rented to transient guests by lodging establishments to fund some or all of the above projects and activities; and

BE IT FURTHER RESOLVED that a hearing shall be held before the Deadwood City Commission on Monday, the 16th day of November, 2009 at 5:20 p.m. at the City Commission Chambers located at 102 Sherman Street, in the City of Deadwood, to consider the continuation of Business Improvement District No. 7 and the imposition of a Two Dollar ($2.00) per room rented occupancy tax on transient guests for rooms rented by the above lodging establishments.

The City Finance officer shall give notice of this hearing by mailing a complete copy of this Resolution of Intent to each owner and user of space in all lodging establishments or hotel or motel businesses located within the proposed Business Improvement District No. 7 at least thirty (30) days prior to the public hearing.

Dated this 13th day of October, 2009.

ATTEST: City of Deadwood
/s/ Mary Jo Nelson, Finance Officer /s/ Francis Toscana, Mayor

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VFW Request - Sell Alcohol

Klamm moved, Silvernail seconded, to allow the VFW to sell alcohol at Deadwood Pavilion October 23-25, 2009 for Annual 9 Ball Shoot-Out Pool Tournament. Roll Call: Aye-All. Motion carried.

PUBLIC HEARINGS/BID OPENINGS

Public Hearing

There being no objections, Silvernail moved, Schroeder seconded, to approve the convention center liquor license for Deadwood Resort, LLC dba The Lodge at Deadwood, 100 Pine Crest Lane, Deadwood Resort Lot 1A and Deadwood Resort Lot 2A, being a replat of Deadwood Resort Lots 1 and 2, City of Deadwood, Lawrence County, South Dakota, all located in the Northeast 1/4 and the Southeast 1/4 of Section 14, T5N, R3E of the Black Hills Meridian, City of Deadwood, Lawrence County, South Dakota. Roll Call: Aye-All. Motion carried.

FINANCE

Addition to Policy Manual

A recommendation was made by South Dakota Department of Legislative Audit, to add the following to the policy manual, which the Finance Office is currently following: 6.46 Pay Upgrade for Trolley Drivers - when a trolley driver takes on additional duties of carrying a pager and being on call during the absence of trolley manager, they will receive an additional $2.00 per hour while acting as assistant manager. Peterson moved, Silvernail seconded, to approve the addition to the Policy Manual as recommended by Legislative Audit personnel. Roll Call: Aye-All. Motion carried.

HISTORIC PRESERVATION/PLANNING & ZONING/PUBLIC BUILDINGS/SAFETY

Purchase Request

Silvernail moved, Peterson seconded, to approve the purchase of street pavers at a cost of $4,248 from I-29 Brick and Stone Company, to be paid from Historic Preservation Capital Asset line item (brick streets.) Roll Call: Aye-All. Motion carried.

Quote - HCW Construction

Silvernail moved, Klamm seconded, to accept the quote received from HCW Construction for $20,064 to remodel the basement in City Hall, to be paid from bonded funds and request the City Attorney prepare the contract. Roll Call: Aye-All. Motion carried.

STREETS/WATER/LIBRARY

Payment Request

Schroeder moved, Klamm seconded, to approve the payment of $1,020 to Hillside Disposal for three roll offs at the WASP Rubble Site in September. Roll Call: Aye-All. Motion carried.

POLICE/FIRE

Extend Vacation Hours

Klamm moved, Silvernail seconded, to allow Kelly Fuller to extend 52 hours of vacation to November 30, 2009. Roll Call: Aye-All. Motion carried.

Extend Vacation Hours

Klamm moved, Silvernail seconded, to allow Cindy Rische to extend 85 hours of vacation to December 31, 2009. Roll Call: Aye-All. Motion carried.

EXECUTIVE SESSION/REGULAR MEETING, October 13, 2009

PARKS/RECREATION/TROLLEY

Wage Increase
Silvernail moved, Peterson seconded, to approve the wage increase of Erik Simonyak for lifeguard duties from $8.50 to $9.00 per hour effective October 12, 2009, after completion of three year's of service. Roll Call: Aye-All. Motion carried.

Mt. Moriah - Resignations
Due to the seasonal closure of the Mt. Moriah ticket booth on October 7, 2009, Silvernail moved, Peterson seconded, to accept the resignations of Juanita James, Connie Olsen, Ardath Waisanen, Linda Allen, and Kari Nordstrom. Roll Call: Aye-All. Motion carried.

LEGAL BUSINESS

Contract
Klamm moved, Silvernail seconded, to allow the Mayor to sign a contract between the Emergency Services Marketing Corp., Inc. (ESMC) as the duly licensed provider of IamRsponding.com's Emergency Responder Reply System (ERRS) and the Deadwood Volunteer Fire Department/City of Deadwood for a one (1) year subscription services for $800.00 plus $50.00 activation fee (one time fee) as described in said contract. Roll Call: Aye-All. Motion carried.

MAYORS BUSINESS

Resolution 2009-22 (Continued from 10-5-2009)
Silvernail moved, Klamm seconded, to approve Resolution 2009-25 requesting that the SD Department of Transportation lower the speed limit on State Highway 85 to 35 miles per hour in the area passing the Lodge at Deadwood Convention Center and Tatanka to protect the welfare, health and safety not only the residents of Deadwood, but all motorists on State Highway 85. Roll Call: Aye-All. Motion carried.

WHEREAS, the City of Deadwood has examined all relevant information regarding the traffic on the hill that passes the Lodge at Deadwood Convention Center and Tatanka on State Highway 85 in Deadwood, South Dakota; and

WHEREAS, the City of Deadwood is firmly convinced that the speed of 55 miles per hour is too fast for the welfare, health and safety of its citizens in the above-described area; and

WHEREAS, the City of Deadwood believes that a speed of 35 miles per hours is more appropriate; and

WHEREAS, the City of Deadwood does not control the speed of State highways; and

WHEREAS, the City of Deadwood desires the State to lower the speed in the manner and location described above; now, therefore,

BE IT RESOLVED by the City of Deadwood that formal request is hereby made of the South Dakota Department of Transportation to lower the speed limit on State Highway 85 to 35 miles per hour in the area passing the Lodge at Deadwood Convention Center and Tatanka in a manner that adequately protects the welfare, health and safety of not only the residents of Deadwood, but also all motorists on State Highway 85.

Dated this 13th day of October, 2009.

ATTEST:
/s/ Mary Jo Nelson, Finance Officer

CITY OF DEADWOOD
Francis Toscana, Mayor

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Request Executive Session
Mayor Toscana requested an Executive Session. Silvernail moved, Klamm seconded, to go in to Executive Session following the Regular Session for union negotiations with possible action and contractual matters with possible action to be taken. Roll Call: Aye-All. Motion carried.

Presentation of Safety Award
Mayor Toscana announced and presented the City of Deadwood employees with the Loss Control Safety Achievement Gold Award for 2009.

EXECUTIVE SESSION/ADJOURNMENT
Klamm moved, Schroeder seconded, to adjourn the regular session at 5:30 p.m. and convene into Executive Session for Union Negotiations with possible action and Contractual matters with possible action to be taken. The next regular meeting will be at 5:00 p.m. on Monday, October 19, 2009.

Schroeder moved, Silvernail seconded, to adjourn to executive session to discuss Union Negotiations with possible action. Roll Call: Aye – All. Motion carried.

EXECUTIVE SESSION/REGULAR MEETING, October 13, 2009

Silvernail moved, Schroeder seconded, to adjourn executive session and return to regular session to act on Union Negotiations. Roll Call: Aye – All. Motion carried.

Silvernail moved, Schroeder seconded, to declare impasse in contract negotiations with the International Union of Operating Engineers #49, Police Unit. Roll Call: Aye – All. Motion carried.

Silvernail moved, Klamm seconded, to adjourn once again, to executive session to discuss contractual issues with possible action. Roll Call: Aye – All. Motion carried.

Silvernail moved, Klamm seconded, to adjourn executive session and return to regular session to act on contractual matters with Blondie's IGA grocery store. Roll Call: Aye – All. Motion carried.

Schroeder moved, Klamm seconded, to negotiate a new, one-year, grocery store lease agreement with Larry and Blondie Woolston effective November 1, 2009 through October 31, 2010. The monthly payment for the lease from November 1, 2009 through June 30, 2010 will be $1,100.00. The monthly payment for the lease from July 1, 2010 through October 31, 2010 will be negotiable, but will not be less than $1,100.00. This is contingent upon the Woolston's signing a new lease agreement on or about November 1, 2009. Roll Call: Aye – All. Motion carried.

Silvernail moved, Schroeder seconded, to authorize Deadwood-Lead Economic Development Corporation to take $9,500.00 from the grocery store reserve account to pay for replacing the front doors of the grocery store. This is also contingent upon the Woolston's signing a new lease agreement on or about November 1, 2009. The $9,500.00 will be added to the initial cost of the building. Roll Call: Aye – All. Motion carried.

Klamm moved, Silvernail seconded, to adjourn the meeting at 6:20 pm.

ATTEST: Mary Jo Nelson

Mary Jo Nelson, Finance Officer

DATE: 10-19-09

BY: Mike Klamm

Francis A. Toscana, Mayor

CITY OF DEADWOOD SEAL SOUTH DAKOTA

For any public notice that is published one time:
Published once at the total approximate cost of _____.