

EXECUTIVE SESSION/REGULAR MEETING, October 4, 2010

The Regular Session of the Deadwood City Commission convened on October 4, 2010 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, Schroeder seconded, to approve the minutes of September 27, 2010. Roll Call: Aye-All. Motion carried.

APPROVAL OF DISBURSEMENTS

Silvernail moved, Klamm seconded, to approve the October 4, 2010 disbursements with the additional bill. Roll Call: Aye-All. Motion carried.

A & B BUSINESS	MAINT	97.57
ABC	SUPPLIES	127.19
BH POWER	UTILITIES	3,607.29
CHEMSEARCH	SUPPLIES	155.71
COMPANION LIFE	INSURANCE	221.01
CONRADS BIG "C"	LAMPS	356.01
CULLIGAN	WATER	49.50
DAKOTA SUPPLY	PIPE	362.37
DATA FLOW	FORMS	158.89
DEADWOOD CHAMBER	BILLS	78,750.00
DEADWOOD ELECTRIC	SUPPLIES	52.09
DEADWOOD HOME	SUPPLIES	553.91
DEROSIER, DAVID	SUPPLIES	89.12
FARMER BROTHERS	SUPPLIES	159.00
GLOWAREHOUSE.COM	SUPPLIES	231.92
GOLDEN WEST	TECH SERV	150.63
GREAT WESTERN TIRE	REPAIRS	114.50
HCW, INC.	REPAIRS	386.80
HD SUPPLY WATERWORKS	GRATES	383.94
HILLS MATERIALS	SUPPLIES	27,631.19
J. SCULL CONSTRUCTION	LIC. FEE	25.00
JACOBS WELDING	REPAIRS	272.73
KNOLOGY	SERVICE	667.09
MASONIC CENTER	2010 GRANT	2,190.00
MATTSON, JON	FEES	665.00
MUTH ELECTRIC	APP#8-MICKELSON	20,899.55
NEBRASKA SALT-GRAIN	SALT	2,328.38
NHS OF BH	KIDWEIRD	750.00
NORTHWEST PIPE	SHELL	1,601.08
OFFICE DEPOT	OFFICE SUPPLIES	110.61
PETTY CASH-FINANCE	REIMBURSE	109.55
PIONEER DESIGNS	T-SHIRTS-REC	250.92
QUILL	SUPPLIES	140.88
SCHALLENKAMP, DEAN	REIMBURSE	200.00
SD MUNICIPAL LEAGUE	LUNCHEONS	30.00
SOUTHSIDE OIL	ANTIFREEZE	15,131.14
ST. JOHN'S EPISCOPAL CHURCH	2010 GRANT	7,194.46
SUMMIT SIGNS	SIGNS	186.00
TRAF-O-TERIA SYSTEM	ENVELOPES	787.98
TWILIGHT	SUPPLIES	262.50
TC ANIMAL SHELTER	PROCEEDS	220.40
TC HARDWARE	SUPPLIES	2,399.02
TWO WHEELER DEALER	RACK	170.67
USPO - DWD	POSTAGE-FD	215.11
USPS - DWD	WATER BILLS	180.32
WELLS PLUMBING	CULVERT	316.80
WESTERN STAR	SVC CALL	77.69
	TOTAL	\$171,021.52

ITEMS FROM CITIZENS ON AGENDA

Lead-Deadwood Arts Council Update

Karen Everett with the Lead-Deadwood Arts Council appeared before the Commission to give a quarterly update on the art council's activities that are scheduled for the fall and winter months. Everett added that the Lead-Deadwood Arts Council has reached a milestone, and are officially 20 years old, and continues to bring arts programming to the communities of Lead and Deadwood. Everett reminded everyone that the Cheesecake Sampler would be held on October 8 at the Martin Mason from 6:00 to 8:00 p.m.

Proclamation

Mayor Toscana read a proclamation honoring the Lead-Deadwood Arts Council for all their years of service to our communities.

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PUBLIC HEARINGS/BID OPENINGS

Bid Results - Broadway Ramp

Mayor Toscana announced the results from the bid opening for the replacement of the elevator at the Broadway Parking Ramp. The bids are as follows:

Elevator for Broadway Parking Ramp Bid Opening
Monday, October 4, 2010 @ 2:00 p.m.

Bidder	Bid Bond	Bid Amount
Kone Inc.	X	\$64,800.00
Otis	X	\$69,107.38

Mayor Toscana requested permission to accept the low bid from Kone, Inc. for \$64,800.00. Silvernail moved, Klamm seconded, to accept the low bid from Kone, Inc. for \$64,800.00 and direct City Attorney to prepare a contract. Roll Call: Aye-All. Motion carried.

Public Hearing

Silvernail moved, Schroeder seconded, approve the retail (on-sale) RL-5536 liquor license transfer from Badlands Gaming LLC, Lucky Nugget Casino to KLK Venture, LLC located at 604-624 Main Street. Roll Call: Aye-All. Motion carried.

Public Hearing

Silvernail moved, Schroeder seconded, to approve the street closure on July 2, 2010 for the Shrine Circus Parade starting at 9:30 to 11:00 a.m. or until parade ends. Roll Call: Aye-All. Motion carried. Silvernail moved, Peterson seconded, to waive the vending fee and allow vending on public property for the Shrine Circus events at the rodeo grounds from noon until 10:00 p.m. on July 2, 2010. Roll Call: Aye-All. Motion carried.

Rescind Motion

Schroeder moved, Silvernail moved, to rescind previous motion on August 16, 2010 for the public hearing for Shrine Circus request for street closure and waiver of vending fee (event date was June 25, 2011.) Roll Call: Aye-All. Motion carried.

FINANCE

Surplus Auction Results

Finance Officer Mary Jo Nelson announced the results of the City Surplus Auction that was held on October 1, 2010 at 10:00 a.m., proceeds totaled \$3,025.00.

Wage Increase

Peterson moved, Silvernail seconded, to approve the wage increase for Jan Peppmeier from \$15.11 to \$15.90 per hour after two years of service, effective October 6, 2010. Roll Call: Aye-All. Motion carried.

Advertise Position

Peterson moved, Silvernail seconded, to approve the request to advertise for a part time Broadway Parking Ramp attendant at \$8.00 per hour. Roll Call: Aye-All. Motion carried.

Resolution 2010-24 - Set Public Hearing

Peterson moved, Silvernail seconded, to approve Resolution 2010-24 Notice to Levy Business Improvement Districts (BID) 1-6 Taxes for 2011 per SDCL 9-55-8. Peterson moved, Silvernail seconded, to set a public hearing at 5:05 p.m. on November 8, 2010 to consider levy on BID Districts 1-6. Roll Call: Aye-All. Motion carried.

**RESOLUTION NO. 2010- 24
RESOLUTION OF INTENT TO
CONTINUE BUSINESS IMPROVEMENT DISTRICTS, AND
ESTABLISH THE LEVY OF THE BUSINESS OCCUPATION TAX,
AND ESTABLISH RATES FOR 2011 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 2010; and

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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 2011; 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 of 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
- 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 2011 Occupation Tax Levies as follows:

1) The estimated monies to be raised by the Business Improvement Districts in 2011 is \$585,168.00; 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	\$ 25,000.00
Deadwood Chamber of Commerce and Visitors Bureau - Marketing	\$ 560,168.00
TOTAL	\$ 585,168.00

2) The imposition of the General Occupation Tax for the five Districts for 2011 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

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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 of 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, 2011 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, 2011 for the first six months of 2011, and as of the first day of July, 2011, for the second six months of 2011, 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 Eighty-five Thousand and One hundred Sixty Eight Dollars for 2011 (\$585,168.00). **BE IT FURTHER RESOLVED** that a hearing shall be held before the City Commission of the City of Deadwood, South Dakota, on the 8th day of November, 2010, at 5:05 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 2011. 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 4th day of October, 2010.

ATTEST:

/s/ Mary Jo Nelson, Finance Officer

CITY OF DEADWOOD

/s/ Francis A. Toscana, Mayor

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Resolution 2010-25 - Set Public Hearing

Peterson moved, Silvernail seconded, to approve Resolution 2010-25 Notice to Intent to Continue Business Improvement District No. 7 to Levy Occupancy Taxes for 2011 per SDCL 9-55. Peterson moved, Silvernail seconded, to set a public hearing at 5:07 p.m. on November 8, 2010 to consider levy on BID District No. 7. Roll Call: Aye-All. Motion carried.

**RESOLUTION NO. 2010-25
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, 2011 through December 31, 2011:

Projected revenue of \$425,000.00 budgeted as follows:

\$405,000.00 Marketing
<u>\$ 20,000.00 Legal/Administrative</u>
\$425,000.00 Total Budget

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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 8th day of November, 2010 at 5:07 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 4th day of October, 2010.

ATTEST:

/s/ Mary Jo Nelson, Finance Officer

CITY OF DEADWOOD

/s/ Francis A. Toscana, Mayor

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STREETS/WATER/LIBRARY

Purchase Request

Schroeder moved, Klamm seconded, to approve the purchase of 5,500 gallons of blended diesel fuel at \$2.57 per gallon from Southside Service. Roll Call: Aye-All. Motion carried.

PARKS/RECREATION/TROLLEY

Employee Resignation

Silvernail moved, Peterson seconded, to accept the resignation of Jackie Eide, trolley driver, effective October 12, 2010. Roll Call: Aye-All. Motion carried.

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Terminate Employment

Silvernail moved, Peterson seconded, to terminate the employment of Parks Department employee James Gustafson effective August 19, 2010. Roll Call: Aye-All. Motion carried.

Terminate Employment

Silvernail moved, Peterson seconded, to terminate the employment of Nita Jardee, Kaitlan Middlemas, and Nick Silvernail effective August 16, 2010 due to end of summer camp. Roll Call: Aye-All. Motion carried.

Trolley on the Trail

Silvernail moved, Peterson seconded, to approve the Trolley on the Trail dates for 2011: June 7, July 13, September 6, and September 7, 2011. Roll Call: Aye-All. Motion carried.

Hire Request

Silvernail moved, Peterson seconded, to approve the hiring of Jenessa Rantapaa for front desk at the Deadwood Rec at \$7.50 per hour, effective October 5, 2010. Roll Call: Aye-All. Motion carried.

MAYORS BUSINESS

Meeting Date Change

Mayor Toscana announced that the next Commission meeting would be held on Tuesday, October 12, 2010 at 5:00 p.m. in observance of Native American Day.

Special Meeting - October 13, 2010

Mayor Toscana announced that there would be a special meeting at 5:00 p.m. on Wednesday, October 13, 2010. A public hearing will be held at 5:00 p.m. for a Special Temporary Liquor License at the Deadwood Pavilion October 15-17, 2010 for a Pool Tournament. The public must have 24 hours notice; this item could not be added to the agenda for October 12, 2010. The public hearing notice will publish on October 6 in the Lawrence County Journal, and must be published seven days prior to hearing per state law.

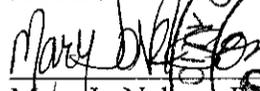
Request Executive Session

Mayor Toscana requested an Executive Session following the Regular Session for Contractual Matters per SDCL 1-25-2 (3) with no action to be taken.

ADJOURNMENT

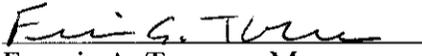
Klamm moved, Schroeder seconded, to adjourn the regular session at 5:35 p.m. and convene into Executive Session for contractual matters per SDCL 1-25-2 (3) with no action to be taken. The next regular meeting will be at 5:00 p.m. on Tuesday, October 12, 2010.

ATTEST:


Mary Jo Nelson, Finance Officer



DATE: 10-12-10

BY: 
Francis A. Toscana, Mayor

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