

DEADWOOD HISTORIC PRESERVATION COMMISSION

Wednesday, June 9, 2010 ~ 5:00 p.m.

City Hall, 108 Sherman Street, Deadwood, South Dakota

1. Call meeting to order– Chair Darin Derosier
2. Approval of Minutes
3. Voucher Approval
4. Old or General Business
5. New Matters before the Deadwood Historic District Commission
 - a. Case# 10027 – 756 Main Street – Re-roofing – St. Ambrose Parish
 - b. Case# 10028 – 760 Main Street – Re-roofing – St. Ambrose Parish
 - c. Case# 10029 – 136 Sherman Street – Planters – Darin Derosier
 - d. Case# 10030 – 764 Main Street – New Construction – Michael Berg
6. New Matters before the Deadwood Historic Preservation Commission
 - a. Acceptance of scanner from Lawrence County Register of Deeds
 - b. Review of Deadwood Old West Auction & Show materials
7. Revolving Loan Fund/Retaining Wall Program Update.
 - a. Retaining Wall Applications
 - b. Revolving loan Program/Disbursements
 - c. Retaining Wall Program/Disbursements
8. Items from Citizens not on agenda
9. Committee Actions and Reports
10. Staff Report

CITY OF DEADWOOD
HISTORIC PRESERVATION COMMISSION

Wednesday, June 9, 2010

Present Historic Preservation Commission: Darin Derosier, Ronda Feterl, Mary Ann Oberlander, Mike Olsen, Steve Olson, Matt Pike and Willie Steinlicht. Historic Preservation Officer Kevin Kuchenbecker was also present.

Absent Historic Preservation Commission: None.

Present Deadwood City Commission: Mayor Francis Toscana and Commissioners Georgeann Silvernail and Lenny Schroeder.

All motions passed unanimously unless otherwise stated.

A quorum being present, Chairman Darin Derosier called the Deadwood Historic Preservation Commission meeting to order on Wednesday, June 9, 2010 at 5:00 p.m. in Deadwood City Hall located at 108 Sherman Street, Deadwood, SD.

Review Minutes

It was moved by Mr. M. Olsen and seconded by Mr. S. Olson to approve the minutes of May 12, 2010. Aye – All. Motion carried.

Voucher Approval

Operating Account:

It was moved by Mr. M. Olsen and seconded by Ms. Oberlander to approve the HP Operating Account in the amount of \$62,433.29. Aye – All. Motion carried.

Bonded Account:

It was moved by Ms. Oberlander and seconded by Mr. S. Olson to approve the HP Bonded Account in the amount of \$46,340.38. Aye – All. Motion carried.

OLD OR GENERAL BUSINESS

None.

NEW MATTERS BEFORE THE DEADWOOD HISTORIC DISTRICT COMMISSION

Ms. Oberlander recused herself for Case #10027 and #10028 for St. Ambrose Parish.

Case# 10027 – 756 Main Street – Re-roofing – St. Ambrose Parish

Mr. Kuchenbecker explained that the was applicant requesting a Certificate of Appropriateness for work at 756 Main Street, a contributing structure built in 1936 in the Deadwood City Planning Unit. The

applicant is requesting permission to remove the existing shingles and replace them with lifetime or fifty (50) year fiberglass shingles. The proposed work and changes DOES NOT encroach upon, damage or destroy a historic resource, nor does it have an adverse affect on the character of the building or the historic character of the districts. ***It was moved by Mr. Steinlicht and seconded by Mr. Pike that based upon all the evidence presented the finding is that this project DOES NOT encroach upon, damage or destroy any historic property included in the National Register of Historic Places or the State Register of Historic Places; and therefore, grants Certificate of Appropriateness.*** Mr. S. Olson questioned why Historic Preservation Commission would review the case because he felt it was maintenance. Mr. Kuchenbecker state that the property was within the local Historic District which therefore required review. ***Aye – All. Motion carried.*** (The staff report is attached hereto on Exhibit A and incorporated herein by this reference.)

Case# 10028 – 760 Main Street – Re-roofing – St. Ambrose Parish

Mr. Kuchenbecker explained that the applicant was requesting a Certificate of Appropriateness for work at 756 Main Street, a contributing structure built in 1936 in the Deadwood City Planning Unit. The applicant is requesting permission to remove the existing shingles and replace them with lifetime or fifty (50) year fiberglass shingles. The proposed work and changes DOES NOT encroach upon, damage or destroy a historic resource, nor does it have an adverse affect on the character of the building or the historic character of the districts. ***It was moved by Mr. S. Olson and seconded by Mr. M. Olsen that based upon all the evidence presented the finding is that this project DOES NOT encroach upon, damage or destroy any historic property included in the National Register of Historic Places or the State Register of Historic Places; and therefore, grants Certificate of Appropriateness.*** ***Aye – All. Motion carried.*** (The staff report is attached hereto on Exhibit B and incorporated herein by this reference.)

Ms. Oberlander returned to the meeting.

Mr. Derosier recused himself for Case #10029 and turned the meeting over to Vice-Chair, Ms. Feterl.

Case# 10029 – 136 Sherman Street – Planters – Darin Derosier

Mr. Kuchenbecker explained that the applicant was requesting a Certificate of Appropriateness for the installation of window planters at 136 Sherman Street, a contributing structure built in 1936/1941 in the South Deadwood City Planning Unit. Mr. Kuchenbecker explained that a similar request was submitted and granted at Deadwood Thymes Bistro on Sherman St. He noted the changes are easily reversible. The proposed work and changes DOES NOT encroach upon, damage or destroy a historic resource, nor does it have an adverse affect on the character of the building or the historic character of the districts. ***It was moved by Mr. Steinlicht and seconded by Mr. M. Olsen that based upon all the evidence presented the finding is that this project DOES NOT encroach upon, damage or destroy any historic property included in the National Register of Historic Places or the State Register of Historic Places; and therefore, grants Certificate of Appropriateness.*** ***Aye – All. Motion carried.*** (The staff report is attached hereto on Exhibit C and incorporated herein by this reference.)

Mr. Derosier returned to the meeting and resumed the chair.

Case# 10030 – 764 Main Street – New Construction – Michael Berg

Mr. Kuchenbecker explained that the applicant was requesting a Certificate of Appropriateness for the construction of a new residence at 764 Main Street, a contributing structure in the Deadwood City

Planning Unit. He said that the applicant proposes to construct a thousand (1000) square foot home on the remainder of the lot that the current residence at 764 Main Street sits on. The structure would consist of 2 x 6 framing, placed on a slab with bat insulation and engineered trusses. The applicant proposes to use vinyl siding, thirty (30) year shingles and have a three foot overhang. The structure would have no covered patio. Mr. Kuchenbecker stated that the proposed new construction is inappropriate and DOES encroach upon and damage and destroy the integrity of the existing structures at 764 Main Street and the Rectory at 760 Main Street. Mr. Kuchenbecker reviewed his entire staff report which is attached hereto on Exhibit D and incorporated herein by this reference.

Mr. Deroiser noted that Mr. Kuchenbecker's staff report was very thorough. *It was moved by Mr. Steinlicht and seconded by Mr. S. Olson that based upon all the evidence presented he move to make a finding that this project DOES encroach upon, damage or destroy historic property included in the National Register of Historic Places or the State Register of Historic Places for 764 Main Street, Case # 10030.* Mr. Pike questioned if application was subject to higher scrutiny because it was in the core district. Mr. Kuchenbecker stated it was because it was a Certificate of Appropriateness. Mr. Pike noted that the record should reflect the updated Staff Report, as well as the application, discarding the draft Staff Report. Mr. Kuchenbecker stated that it would.

Mr. Pike questioned if the applicant resided in the current home at 764 Main Street. Mr. Kuchenbecker explained that the current home is a rental duplex. Mr. Pike questioned if the applicant was requesting to build the proposed new construction, within the core district, on the lot that has traditionally served as the yard of the existing house. Mr. Kuchenbecker stated that was correct.

Mr. Pike asked if the design, as presented, is inappropriate infill. Mr. Kuchenbecker stated that was correct.

Ms. Feterl questioned if the applicant had worked with staff. Mr. Kuchenbecker stated Mr. Berg had worked with Mr. Keith Umentum, Building Inspector, Mr. Robert Nelson Jr., Zoning Administrator and himself. Ms. Feterl asked if the applicant had been offered any alternatives. Mr. Kuchenbecker explained that he had discussed issues of the size and scale of the structure, as well as the lack of a front porch with the applicant.

Mr. Pike questioned "sandwiching" a new building in an area that had traditionally been a yard, would be inappropriate in the core district, even if an appropriate design could be attained. Mr. Kuchenbecker stated that in his research there was no evidence of a structure between 764 Main Street and the Rectory. Mr. Kuchenbecker stated that it could be possible to design a structure that would fit the area; however the historical significance of site and setting of 764 Main Street would still remain. He added that construction is complicated further by the structures location in the core historic district. Mr. Pike stated the application fails on two points, 1) the proposed design and 2) encroachment of the structure on the Rectory and 764 Main Street, which would affect the site and setting of the historic structure. Mr. Kuchenbecker stated correct.

Aye – All. Motion carried. (The staff report is attached hereto on Exhibit D and incorporated herein by this reference.)

It was moved by Mr. Steinlicht and seconded by Mr. M. Olsen that based upon the guidance in the U.S. Department of the Interior Standards for historic preservation projects in the 36 C.F.R 67, that the project is ADVERSE to Deadwood and moved to DENY the project as presented. Aye – All. Motion carried.

NEW MATTERS BEFORE THE DEADWOOD HISTORIC PRESERVATION COMMISSION

Acceptance of scanner from Lawrence County Register of Deeds

Mr. Kuchenbecker explained that Ms. Sheree Green from the Lawrence County Register of Deed offered to donate the City of Deadwood a SC600 Graphic Tech scanner and Canon W8400 printer. He recommend acceptance of the donation and noted it would be utilized in the Archives for the map and architectural plan collection. *It was moved by Mr. M. Olsen and seconded by Mr. S. Olson accept the scanner from Lawrence County Register of Deeds. Aye – All. Motion carried.*

Review of Deadwood Old West Auction & Show materials

Mr. Kuchenbecker explained that the Archaeology, Archives and Acquisition (AAA) Committee asked Mr. Mike Runge, City Archivist to compile a list of the auction items with ties to Deadwood. He stated that Mr. Runge reported on eleven items and provided provenance to Deadwood in the report. Mr. Kuchenbecker turned the meeting over to the chair of the AAA Committee, Mr. M. Olsen for the committee recommendations.

Mr. M. Olsen reported that there were two items recommended by the AAA Committee. He stated that Lot #264 C. 1890 photo of Deadwood was a photo that was not currently in the Adams Museum or Days of 76 collections. The committee recommended that the City pursue this lot.

Mr. M. Olsen reported that Lot #601 A.A. Coburn jacket had ties to Deadwood. He stated that in contacting the family it was found that the jacket was presented to “Doc” Coburn by Native Americans in in the 1930s for organizing their participation in the Days of 76 celebration. He stated that given the clear provenance of the jacket and the importance of Doc Coburn to Deadwood and to the Days of 76, the committee recommended that the City pursue this lot.

Mr. M. Olsen stated that the committee recommends that an amount not to exceed \$10,000 be allocated for the action and sale as a whole. He noted that the committee recommended that HPC and/or City Commission appoint an agent to act on the City’s behalf during the auction.

Mr. Deroiser thanked the committee for their report. Ms. Feterl questioned if the family was interested in pursuing the jacket. Mr. M. Olsen stated the family stated that they could not financially afford to purchase the jacket. Mr. M. Olsen stated that JD Morris, sold the jacket because it was showing wear and he did not know how to take care of and protect the jacket.

It was moved by Mr. S. Olson and seconded by Mr. M. Olsen to recommend to the City Commission to pursue the two items, in an amount not to exceed \$10,000.00 and to appoint a buyer to act on the City’s behalf. Aye – All. Motion carried.

REVOLVING LOAN FUND/RETAINING WALL PROGRAM UPDATE:

Revolving Loan Fund – Cash Disbursements

It was moved by Mr. M. Olsen and seconded by Mr. Steinlicht to approve the Revolving Loan Fund disbursements in the amount of \$88.00. Aye – All. Motion carried.

Financial and Delinquency Report

Ms. McCracken reviewed the delinquency report. She noted that Blake Haverberg had made May's payment.

Loan Committee Report

Ms. McCracken stated that there was a lengthy discussion regarding Hickok's at the Loan Committee Meeting. She explained that agents from First Interstate Bank and Hickok's as well as, Mr. Kuchenbecker and herself, had had a conference call with an appraiser about pursuing a conservation easement on the property. She explained that First Interstate would find a buyer for the easement and to generate income to keep Hickok's in business.

Ms. McCracken stated that historic buildings in Deadwood have three tools to help with preservation of buildings: a freeze on the real estate tax for improvements; obtainment of a historic tax credit of twenty percent (on qualified expenditures) and/or a conservation easement. Ms. McCracken explained that a conservation easement means that the appraiser would determine a value of the façade and the owner would donate the façade to an entity such as a not-for-profit group. The not-for-profit group could syndicate and sell the tax donation for a value. Ms. McCracken stated that for example, if Hickok's appraises at \$8,000,000, then the façade could be worth about 15% or 1.2 million. A group would then buy the tax deduction generating about \$300,000 minus expenses.

Ms. McCracken stated that in discussion of lending for commercial buildings in the future, the applicant must first use all of the "tools" in the toolbox to be eligible for the revolving loan funds. She noted that if Hickok's had utilized these tools before they could have generated \$1,000,000.

Ms. Feterl questioned if it would be a requirement in order to get Historic Preservation monies or just an option. Ms. McCracken stated the loan committee discussed making it a guideline where applicable because not all buildings would be eligible. Ms. Feterl asked what would happen if the applicant is eligible and does not want to participate. She questioned if HPC would then not loan them money. Ms. McCracken and Mr. Deroiser that stated they did not know at this time, but that it had been brought up in the discussion. Ms. Feterl and Ms. Oberlander noted that it would limit an applicant's choices.

Mr. S. Olson questioned how an easement could be sold on a property without clearing liens. Ms. McCracken stated that the lien on the façade would have to be cleared but she was unsure of how it was done and noted legal council would be involved. Ms. McCracken stated that the amount of paperwork is massive and applicants often think it's a hassle; however, the end product can be very beneficial. Ms. McCracken stated that HPC could offer technical assistance to help with the process and with associated fees possibly paid for by the applicant. Mr. Pike agreed that providing assistance and education of the process would be beneficial to the applicant.

Mr. Kuchenbecker explained that if they syndicated, a cash flow would be greater because of less debt service. Mr. Kuchenbecker stated that HPC financing is often gap financing. Mr. Toscana stated that it would but the City is in a better position to get their money back. Mr. Pike stated that there would be a motive for HPC to look at for providing the applicant services, however, it is still in discussions.

Mr. Kuchenbecker explained that the appraiser will travel to Deadwood twice to conduct the Hickok's appraisal and to discuss his report. He stated that they are looking to have a workshop with various lending intuitions as well as investors regarding the conservation easement. He encouraged the Commission and the City Commission to attend the workshop.

Ms. Oberlander suggested that incentives could be used to motive applicants to use these programs. Mr. S. Olson questioned if Historic Preservation would get any of the money generated by the façade easement. Ms. McCracken stated that in the case of Hickok's, HPC would not get any of the generated money because it would go toward taxes and operating expenses.

Mr. Toscana questioned what would happen to the vaule of the property if the façade easement is use and the business still forecloses. Mr. Schroeder stated that the value of the property would be less due to the conservation easement and that there would be less of a chance to recover HPC monies. Mr. Kuchenbecker stated it would vary on a case by case bases.

After discussion, the Historic Preservation Commission agreed that having the proposed workshop would be beneficial to learn about conservation easements with the appraiser. Mr. Kuchenbecker noted that these tools are available for use by property owners without HPC endorsement.

Mr. S. Olsen questioned if a payment made by a delinquent property could be applied to smaller loans to get them paid off, therefore, allowing focus only on the larger loans. Ms. McCracken stated that because of the loan agreement, payments received go towards interest first.

Ms. McCracken gave an update regarding Paint the Town and stated she would follow up with placement of banners.

ITEMS FROM CITIZENS NOT ON AGENDA:

None.

Committee Actions and Reports:

Grants, Recognition & Advocacy: Commission representatives: Ronda Feterl, Matt Pike and Mary Ann Oberlander.

Ms. Oberlander reported that the Committee reviewed the Outside of Deadwood and Not-for-Profit Grant applications to be brought forth at the June 23, 2010 HPC meeting.

Archaeology, Archives & Acquisitions: Commission representatives: Mike Olsen, Willie Steinlicht and Steve Olson.

No report.

Budget: Commission representatives: Ronda Feterl, Darin Derosier Matt Pike.

Ms. Feterl reported that Ms. Mary Jo Nelson, Finance Officer, had made recommendations on the 2011 Historic Preservation Budget at the Budget Meeting.

Cemetery/GIS: Commission representatives: Steve Olson, Mary Ann Oberlander and Mike Olsen.

Mr. S. Olson reported on the following:

Reinternment of the human remains found in Presidential area. The committee is waiting for the State to find out what the next step is.

The Harnett stone was removed from the Mt. Moriah Cemetery and it was suggested to replace the stone. Stabilization of the area would have to take place before a new stone could be placed.

Discussion on the wooded headboard that was removed from the cemetery and the possible placement in the Mt. Moriah Interpretive Center.

Demolition by Neglect: Commission representatives: Mike Olsen, Steve Olson and Matt Pike.

No report.

Loans: Commission representatives: Ronda Feterl, Willie Steinlicht and Darin Derosier.

No report.

Policies & Procedures: Commission representatives: Entire HPC.

No report.

Adams Museum: Commissioner Mary Ann Oberlander.

No report.

Chamber of Commerce: Commissioners Darin Derosier and Willie Steinlicht.

Mr. Steinlicht reported that officer were elected at the meeting. He reported that the Lawrence & Schiller conducted a website presentation; the cost of the website was over \$120,000. Mr. Steinlicht stated the Chamber requested a proposal to pursue the possibility of implementing the website.

Days of '76: Commissioner Mike Olsen.

Mr. Mike Olsen reported on the following:

There will be a silent auction at The Lodge during the Western Memorabilia Auction during Wild Bill Days on Thursday June 17, 2010 .

Neighborhood Housing Services: Commissioner Willie Steinlicht.

No report.

Planning and Zoning: Commissioner Mike Olsen.

Mr. M. Olsen reported on the following:

They approved a sign at 24 Cliff Street for Arleth and Associates.

They approved the Findings of Facts for the Conditional Use Permit at 65 Sherman Street.

Historic Preservation Staff: Kevin Kuchenbecker, HP Officer; Michael Runge, Archivist; Deanna Berglund, Administrative Assistant; Virginia Peterson, Administrative Assistant.

Mr. Kuchenbecker reported on the following:

The bid opening for the Days of 76 Museum would be on Monday June 14, 2010 at 2:00 p.m. Budget Hearings would be June 22 and 23, 2010 at 7:00 a.m. at City Hall.

Parking Garage Meeting on June 10, 2010 with Parking & Transportation.

He has been working on the parking garage and hotel project at the Slime Plant.

The Engine House, declared surplus property, would be auctioned on July 8, 2010 at 1:30 p.m. He had contacted the Roundhouse in Lead for possible loan or donation of the 1938 Engine housed in the Engine House. Staff is working together to clean out the items stored in the Engine House.

Noted the Window Grant Report.

OTHER BUSINESS

Mr. Pike questioned if recordation of the Engine House would take place as a condition of the sale. Mr. Kuchenbecker stated that it would be a condition of the Warranty Deed, as well as an easement requiring the new owners to maintain the property to the Secretary of Interior Standards. Mr. Pike questioned if all of the covenances put together by the Engine House task force would also be in place as a part of the sale. Mr. Kuchenbecker stated that the draft Warranty deed was presented to the City Commission and will have some minor changes. Replating and rezoning to Commercial Enterprise will take place after the sale of the Engine House. Mr. Kuchenbecker explained that the concern of no gaming being allowed on the property will be addressed with the rezoning to Commercial Enterprise, which does not allow gaming.

Mr. Pike asked that Mr. Kuchenbecker keep the HPC updated with the developments and if he could elaborate on the gaming issue. Mr. Kuchenbecker stated that according to legal council, Mr. Jason Campbell, the restriction of no gaming cannot be placed in the Warranty deed, therefore the change of zoning would address the no gaming restriction. Mr. Pike expressed his concerns with the gaming issue and stated it was felt strongly by the Engine House task force that no gaming be allowed. He stated that zoning the property Commercial Enterprise could lead to another change of zoning to eventually allow gaming. Mr. Schroeder stated that because the City is selling the property it is a risk that gaming may eventually happen on the property. Mr. Pike questioned why Mr. Campbell was not placing the restriction on the property as terms of the sale. Mr. Kuchenbecker stated that the issue is more of a City Commission issue than HPC and should be addressed accordingly. Mr. Pike stated for the record, that he felt strongly as a member of the Engine House task force and HPC that the preservation issue of the Engine and the issue of gaming be addressed. Ms. Feterl stated that the HPC recommendation were a part of the record. Mr. Schroeder stated that the City Commission did not want to see gaming in the property but that it could happen because of the sale. Mr. Derosier stated that the only guaranty that no gaming would be allowed would be to not sell the property, however, the decision had been made to sell.

Mr. Derosier questioned who would represent the City during the auction. Mr. Kuchenbecker stated that this should be the City Commission's decision. ***It was moved by Mr. Steinlicht and Mr. M. Olsen recommend to the City Commission to find a representative for the auction. Aye – All. Motion carried.***

ADJOURNMENT:

Hearing no further business to come before the Commission at this time and no objections from the Commission or the audience, Chairman Derosier adjourned the meeting at 6:25 p.m.

ATTEST:

Darin Derosier
Chairman, Historic Preservation Commission
Deanna Berglund, Acting Recording Secretary