

DEADWOOD HISTORIC PRESERVATION COMMISSION

Wednesday, October 8, 2014 ~ 5:00 p.m.

City Hall, 108 Sherman Street, Deadwood, South Dakota

1. Call meeting to Order
2. Approval of Minutes
 - a. Approval of Minutes from September 24, 2014
3. Voucher Approval
4. Old or General Business
 - a. Request for Off Season Deadwood Alive Programming
 - b. South Dakota Main Street Summit Meeting in Rapid City - SHPO
 - c. Chapter 17.68 – Ordinance update and recommendation to City Commission
 - d. PA – Case #14057 – 2 Fremont St – Demolition – Jeff Snedeker
 - e. GRAPE Recommendation - St. John's Episcopal Church project
5. New Matters before the Deadwood Historic District Commission
 - a. CoA – Case #14063 – Across from 555 Main St – Alter foundation/Retaining Wall – Donnie Patton
6. New Matters before the Deadwood Historic Preservation Commission
 - a. PA – Case # 14064 – 19 Centennial Ave – Siding – Greg Vecchi
7. Revolving Loan Fund/Retaining Wall Program Update
 - a. Retaining Wall Applications
 - b. Revolving loan Program/Disbursements
 - i. Pete Kirchhevel – 316 Williams
 - ii. John Hopkins – 308 Williams
 - iii. Estate of Mary Ellen Casey – 61 Forest
 - iv. Pineview – 21 Lee Street
 - c. Retaining Wall Program / Disbursements
8. Items from Citizens not on agenda (*Items considered but no action will be taken at this time.*)
9. Staff Report (*Items considered but no action will be taken at this time.*)
10. Committee Reports (*Items will be considered but no action will be taken at this time.*)
11. Other Business
12. Adjournment

All Applications **MUST arrive at the City of Deadwood Historic Preservation Office by 5:00 p.m. MST on the 1st or 3rd Wednesday of every month in order to be considered at the next Historic Preservation Commission Meeting.*

**CITY OF DEADWOOD
HISTORIC PRESERVATION COMMISSION**

Wednesday, October 8, 2014

Present Historic Preservation Commission: Chair Laura Floyd, Michael Johnson, Lynn Namminga, Lyman Toews and Thomas Blair were present.

Absent: Chuck Williams was absent

Mr. Kevin Kuchenbecker, Historic Preservation Officer; Ms. Terri Williams, City Attorney; Ms. Joy McCracken, Executive Director of NeighborWorks-Dakota Home Services; and Mr. Mike Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services were all present.

Present City Commission members: Georgeann Silvernail and Dave Ruth Jr were present.

All motions passed unanimously unless otherwise stated.

A quorum present, Chair Floyd called the Deadwood Historic Preservation Commission meeting to order Wednesday, October 8, 2014 at 5:00 PM in Deadwood City Hall located at 102 Sherman Street in Deadwood, SD.

Voucher Approval:

Approval of September 24, 2014 HPC Minutes:

It was moved by Mr. Johnson and seconded by Mr. Blair to approve the minutes of Wednesday, September 10, 2014 as presented. Aye – All. Motion carried.

Voucher Approval:

Operating Account

It was moved by Mr. Johnson and seconded by Mr. Namminga to approve the HP Operating Account in the amount of \$138,764.55. Aye – All. Motion carried.

It was moved by Mr. Johnson and seconded by Mr. Blair to approve the HP Bonded Account in the amount of \$1,366.60. Aye – All. Motion carried.

Old or General Business:

Request for Off Season Deadwood Alive Programming

Mr. Kuchenbecker disclosed he serves on the Deadwood Alive Board and will abstain himself from any discussion, however would present the request unless the Commission would like him to recuse himself. Commission acknowledged and chose not to have Mr. Kuchenbecker recuse himself.

Mr. Kuchenbecker informed the Commission Deadwood Alive is requesting additional HPC funding for off season funding for programming during the Fall and Winter 2014 as well as Spring 2015; request in the amount of \$3,000 is the same as last year. (The letter is attached hereto on Exhibit A and incorporated herein by this reference.) ***It was moved by Mr. Blair and seconded by Mr. Johnson to recommend to the City Commission to approve additional HPC funding to Deadwood Alive in the amount of \$3,000 from Public Education and Advocacy Budget line item as presented. Aye – All. Motion carried.***

South Dakota Main Street Summit Meeting in Rapid City - SHPO

Mr. Kuchenbecker invited Commissioners to attend the South Dakota Main Street Summit Meeting to be held on October 30-31, 2014 in Rapid City. The City of Deadwood has registered to participate; please contact the Historic Preservation Office no later than October 20th if you wish to attend. (The invitation is attached hereto on Exhibit B and incorporated herein by this reference.)

Chapter 17.68 – Ordinance update and recommendation to City Commission

Mr. Kuchenbecker reviewed *Chapter 17.68* noting the previous changes discussed. (The draft ordinance changes are attached hereto on Exhibit C and incorporated herein by this reference.)

Chair Floyd requested discussion of Ordinance to be limited to members of Commission and staff. Referring to minutes from May 24, 2014, Chair Floyd asked Ms. Williams, City Attorney, if she had any comments regarding adding definition of overlay zone and boundaries.

HPC Meeting

Wednesday, October 8, 2014

Ms. Williams stated she had the May 14 minutes in which the Ordinance was reviewed and stated her previous comments are reflected in the minutes.

Chair Floyd addressed Ms. Williams's suggestion to have more of a definition for the classification of planning units and zones under *17.68.010 Historic Overlay Zone*. She stated under *17.68.020 Historic Preservation Commission* and *17.68.030 Historic District Commission* it was suggested to define these two bodies making them mirror each other in some aspects to help clarify the overlay of where the units and zones are under. Chair Floyd asked Ms. Williams if that was correct in her understanding.

Ms. Williams concurred.

Mr. Toews asked if there were any other places in the ordinance or codes where the Commissions were defined.

Ms. Williams stated there were not.

Chair Floyd asked what we needed to do to add these definitions.

Ms. Williams stated Mr. Kuchenbecker has a nice way of describing to individuals on whether the project is dealing with Certificate of Appropriateness or Project Approval. She suggested she would like to see Mr. Kuchenbecker write up the definitions and input into each section.

Mr. Kuchenbecker suggested incorporating a map as the easiest solution; however it is hard to do when dealing with a code. He explained it is dealing with the 1981 City Limits as defined by the National Parks Service in 1985 when they defined the boundaries of the national Historic Landmark District. The district cuts through lots so to formally define it would be somewhat challenging.

Ms. Williams stated Mr. Kuchenbecker defined it perfectly in his last statement.

Chair Floyd asked Ms. Williams if Mr. Kuchenbecker's statement referencing "the 1981 City Limits as defined by the National Parks Service in 1985" was sufficed.

Ms. Williams affirmed that was correct; she stated there was no need for parcel by parcel descriptions.

Mr. Kuchenbecker stated the planning unit 4 is incorporated of four historic overlay zones.

Mr. Toews asked if within the ordinance a specific map could be referenced.

Ms. Williams stated she does think Planning and Zoning does refer to a specific map.

Mr. Kuchenbecker stated it could be incorporated by referencing *17.12.010 Zoning Map*.

Mr. Blair asked Mr. Kuchenbecker if there was a map defining the City of Deadwood's boundaries which the State used when passing the 1988 gambling rules and regulations.

Mr. Kuchenbecker informed the Commission the Zoning Map would reference the 1988 boundaries. He noted the Zoning Map would show when different annexations were as well as reference the National Historic Landmark District boundaries. Mr. Kuchenbecker added this map is updated when an annexation or zoning change occurs. He noted with proper insertion this map could be used to reference the City's boundaries under *17.68.010 Historic overlay zone*.

Chair Floyd noted under *17.68.040 Rules of Procedure* there was a need for clarification as to whether or not there enough for a quorum to hold a vote in the event a Commissioner needs to be recused, has a Conflict of Interest or abstain from voting. She questioned if a simple majority is suffice to pass a vote or if there need for a four person quorum.

Ms. Williams stated off hand she didn't have an answer.

Chair Floyd asked if the Commission would need to refer to Roberts Rules of Order.

Ms. Williams informed the Commission Roberts Rules of Order had different scenarios they would need to refer to.

Mr. Blair stated Roberts Rules of Order usually defines a majority of either the serving body or elected body.

Ms. Williams advised the Historic Preservation Commission By Laws be reviewed for how it reads.

Mr. Kuchenbecker stated his understanding was a seven members Commission and any action taken must had four members for a motion to pass; this would mean if there were four members in attendance, a motion would need all four to pass. He noted with the five Commissioners in attendance at tonight's meeting, a motion would not pass with a 3-2 vote.

Chair Floyd asked if we needed to include this into the ordinance.

HPC Meeting

Wednesday, October 8, 2014

Ms. Williams advised adding a section under *17.68.040 Rules of Procedure* reflecting how the By-Laws read to clarify this concern.

Chair Floyd noted under the *17.68.080 Appeals* there was discussion at May 14, 2014 Commission meeting as to whether or not it was necessary or useful to have in place an Appeals Board, separate from the Circuit Court. She understood the appeal to the Circuit Court is set out in SDCL 1-19B. She asked if it were necessary for an Appeals Board beyond that.

Ms. Williams stated her understanding for the discussion was for whether or not the Commission wanted to do something different for the appeals process. She informed the Commission at one time in State law there was a process to appeal to an administrative leniency which no longer exists. Ms. Williams stated she has no preference.

Chair Floyd asked what the benefits would be to have an Appeals Board.

Ms. Williams stated it would be another method of giving individuals a chance to be heard before taking them to Circuit Court. She stated by having a direct appeal, individuals must be serious on whether or not they want to pursue an appeal verses a board of appeals.

Chair Floyd stated the concern discussed was from the community as to how to compose the Appeals Board and what extent the board's decision making powers would cover. She felt as the process is currently laid out by law; it is doing what it was intended to do.

Mr. Toews agreed the process as defined serves the purpose well.

Mr. Kuchenbecker stated it is staff's opinion to leave as is.

Chair Floyd and Mr. Toews concurred with Mr. Kuchenbecker's recommendation.

Regarding *17.68.050 Criteria for issuance of certificates of appropriateness or project approvals*, Ms. Williams expressed her concern for there to be mirrored content for the following subsections: A. General Factors; B. New Construction; C. Exterior Alteration; and D. Demolition.

Ms. Williams stated, as an attorney, she felt the wording of the following sections were vague and needed defining.

Page 5 Section D of *17.68.050 Criteria for issuance of certificates of appropriateness or project approvals*.

4. Whether or not the resource is structurally sound,...

Page 6 Section D of *17.68.050 Criteria for issuance of certificates of appropriateness or project approvals*.

5.to provide for any reasonable beneficial use of the property,...

Ms. Williams stated the last section should specify if the property maintains original use or if there is a new use, is there a requirement for minimal change for new use and at what would be the cost.

Chair Floyd asked for example.

Ms. Williams used the Sinclair as example. She stated the question is whether or not this building can be restored and rehabbed. If so, her question was "can this building be brought back for its original use as a gas station?" If after rehabbing the Sinclair, it is decided to be used for something different; her question was "what would be the cost to make it for a different use and what modification are needed to be made for that other use while keeping it historically intact?" Ms. Williams pointed out all these factors would need to be considered.

Chair Floyd asked if there needed to be specific wording within the ordinance.

Ms. Williams stated what is in the ordinance refers to the standards dealing with property owners who want to restore and have the intent to restore as historic property. She noted what she has heard, whether it be from City Commissioners, Historic Preservation Commissioners or the public, is when it is feasible for a person to take on the economic burden that is being asked of them. Ms. Williams advised defining the criteria in which the Commission should be considering on whether or not it is feasibly appropriate for the individual. She stressed there needs to be a balance; questions need to be asked such as: "What is the Historic Preservation Commission trying to gain?"; "What is the private entity trying to do?" and "Is it feasible for the entity or individual to do it?" She continued by questioning the Commission on whether or not conditions are imposed upon the applicant, making it difficult to meet the requirements, and in an essence taking property away from the applicant if requirements are not met.

Chair Floyd asked Ms. Williams whether she thought it was not adequately defined under *17.68.070 Unreasonable Economic Hardship*.

Ms. Williams stated it comes down to the factor of cost bearing.

HPC Meeting

Wednesday, October 8, 2014

Chair Floyd asked Ms. Williams whether using verbiage from *17.68.070 Unreasonable Economic Hardship* would help in defining criteria under *17.68.050 Criteria for issuance of certificates of appropriateness or project approvals*.

Ms. Williams stated it would be specific to the project and by defining situation under restoration, rehabilitation or a new construction.

Chair Floyd expressed her desire for the Commission to be encouraging toward individuals and entities to restore and take care of historic resources at every possible opportunity; however she cautioned of having something within the ordinance that is worded in such a way giving someone a way out when they are either doing thing or not doing thing with the best of intentions for the historic resource.

Ms. Williams stated she felt the ordinance does stress properly maintaining, repairing or preserving a historic resource. She noted the only item not specified is the economic feasibility of doing so.

Mr. Toews agreed with Ms. Williams. He stated he would like to see the proposed wording prior to making a decision on the ordinance.

Chair Floyd agreed the ordinance should be reviewed again at the next meeting with proposed wording for the following sections: *17.68.070 Unreasonable Economic Hardship* and *17.68.050 Criteria for issuance of certificates of appropriateness or project approvals*.

Ms. Williams expressed concern for the Commission not to exceed the scope of their authority under *17.68.120 Enforcement and Penalties* and advised proposing wording to reflect as such in subsections 2, 3 and 4 with it subject to statutory limitations.

Chair Floyd expressed appreciation for the close attention and the input from staff, Ms. Williams and members of the Commission. She asked for a copy of Ordinance with the discussed additions and changes to be provided for review to help make a recommendation to the City Commission at the next Historic Preservation Commission meeting.

PA – Case #14057 – 2 Fremont St – Demolition – Jeff Snedeker

Mr. Kuchenbecker informed the Commission the applicant came into his office today and requests permission to continue review of his demolition request at 2 Fremont Street. Mr. Kuchenbecker noted he offered assistance to Mr. Snedeker in finding contractors to provide applicant with cost estimates for rehabilitating the structure. (The application is attached hereto on Exhibit D and incorporated herein by this reference.) ***It was moved by Mr. Blair and seconded by Mr. Johnson, to continue review of Case#14057, 2 Fremont Street until next Historic Preservation Commission's meeting scheduled for October 22, 2014. Aye - All. Motion carried.***

GRAPE Recommendation – St. John's Episcopal Church

Due to his affiliation with St. John's Episcopal Church, Mr. Johnson recused himself.

On September 23, 2014, the Deadwood Historic Preservation Commission's Grants Recognition Advocacy & Public Education (G.R.A.P.E.) Committee met and recommends to the Deadwood Historic Preservation Commission to approve the St. John's Episcopal Church applications for the 2014 Not-for-Profit Grant program.

Mr. Kuchenbecker presented the G.R.A.P.E. Committee's recommendation to approve a Not-for-Profit Grant request from the historic St. John's Episcopal Church for funding to help offset costs to fully restore their historic 1904 Steere pipe organ in the amount of \$56,683.00. He explained St. John's Episcopal Church was granted \$24,978.35 on September 24, 2010 for Phase II of their church restoration project; the grant was closed out on February 23, 2012. Mr. Kuchenbecker stated a change was approved and effective July 24, 2011 to the Not-For-Profit guidelines limiting an amount up to \$50,000 within a five year period. However he noted the change was made following the approval of St. John's Episcopal Church's 2010 grant therefore the church is eligible for up to \$50,000.00.

Mr. Kuchenbecker presented the G.R.A.P.E. Committee's recommendation to approval a Not-for-Profit Grant request from the St. John's Episcopal Church for funding the project up to the amount of \$50,000 as allowable under the current guidelines of the grant program. (The G.R.A.P.E. recommendation is attached hereto on Exhibit E and incorporated herein by this reference.) ***It was moved by Mr. Toews and seconded by Mr. Blair to recommend to the City Commission to approve St. John's Episcopal Church application for the 2014 Not-For-Profit Grant Program with option to choose the amount up to \$50,000 within five year period as presented. Aye – All. Motion carried.***

Mr. Johnson rejoined the meeting.

New Matters before the Deadwood Historic District Commission:

CoA – Case # 14063 – Across from 555 Main St – Alter foundation/Retaining Wall – Donnie Patton

Mr. Kuchenbecker informed the Commission the applicant requests approval to remove, clean up, and enhance the existing retaining wall/foundation for beautification purposes across from 555 Main Street as submitted. (The application is attached hereto on Exhibit F and incorporated herein by this reference.) ***Based upon the guidance found in DCO 17.68.050, it was moved by Mr. Toews and seconded by Chair Floyd this project is congruous with the historical, architectural, archaeological or cultural aspects of the district and MOVE to grant Certification of Appropriateness as submitted for across from 555 Main Street.***

New Matters before the Deadwood Historic Preservation Commission:

Case # 14064 – 19 Centennial Ave – Siding – Greg Vecchi

Mr. Kuchenbecker informed the Commission since the previous Project Approval expired, the applicant requests permission to repair wood siding and replace wood siding with matching where necessary at 19 Centennial Ave as submitted. (The application is attached hereto on Exhibit G and incorporated herein by this reference.) ***Based upon all the evidence presented, it was moved by Mr. Blair and seconded by Mr. Johnson 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 grant project approval for 19 Centennial Ave. Aye - All. Motion carried.***

Revolving Loan Fund/Retaining Wall Program Update:

Retaining Wall Applications

No applications were addressed at this meeting.

Revolving Loan Program/Disbursements

It was moved by Mr. Namminga and seconded by Mr. Blair to approve the HP Revolving Loan Fund disbursement in the amount of \$677.00, based on information as presented by Ms. McCracken, Executive Director of NeighborWorks-Dakota Home Services. Aye - All. Motion carried. Delinquency report was reviewed by Commission. Overview of the Revolving Loan Fund was presented.

Pete Kirchhevel – 316 Williams

It was moved by Mr. Johnson and seconded by Mr. Blair to approve the refinance of the HP Life Safety Loan for Pete Kirchhevel, 316 Williams, in the amount of \$13,318.64 with interest rate increasing to 5%, based on information as presented by Mr. Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

It was moved by Mr. Toews and seconded by Mr. Johnson to approve extending the maturity date to October 1, 2019 due to change in owner occupancy status for the HP Retaining Wall Loan for Pete Kirchhevel, 316 Williams, in the amount of \$52,875.41, based on information as presented by Mr. Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

John Hopkins – 308 Williams

It was moved by Mr. Blair and seconded by Mr. Johnson to approve calling due and payable the HP Retaining Wall Loan for John Hopkins, 308 Williams, in the amount of \$80,839.70 based on information as presented by Mr. Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

Estate of Mary Ellen Casey – 61 Forest

It was moved by Mr. Blair and seconded by Mr. Toews to approve calling due and payable the HP Grant Loan for the Estate of Mary Ellen Casey, 61 Forest, in the amount of \$4,767.92, based on information as presented by Mr. Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

It was moved by Mr. Johnson and seconded by Mr. Toews to approve calling due and payable the HP Grant Loan for the Estate of Mary Ellen Casey, 61 Forest, in the amount of \$10,000.00, based on information as presented by Mr. Walker, Executive Lending Officer of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

It was moved by Mr. Blair and seconded by Mr. Johnson to approve calling due and payable the HP Grant Loan for the Pineview Group LLC, 19 Lee Street, in the amount of \$250,000.00, based on information as presented by Ms. McCracken, Executive Director of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.

Retaining Wall Program/Disbursements:

No applications were addressed at this meeting.

Items from Citizens not on Agenda

Staff Report: (items will be considered but no action will be taken at this time.)

Mr. Kuchenbecker reported on the following items:

- Fence project is finally underway at the Deadwood Rodeo Grounds;
- City Department Heads and Mayor headed to Pierre on September 25 to advocate in keeping the DOT/Highway 85 Reconstruction Project moving forward; Both the Mayor and the Public Works Director did a great job as they witnessed history in the making with the DOT Commission voting three times: First vote was 4-4 to Reject bids; Second vote was 4-4 to Accept bids; and Third vote was 5-3 to Accept bid and to move forward with project;
- Retaining Walls at 2 Dudley is moving forward;
- Retaining Walls at 91 Forest is nearing completion with two masons working on it;
- The First Lady's Gown Collection Open House and Re-dedication is scheduled for November 1 at the State Capital in Pierre on; Invitation will be emailed out and, if you wish to attend, please let our office know;
- Gold Dust has Open House and Ribbon Cutting scheduled for tomorrow, Thursday October 9 at 4:30 PM;
- Blake Haverberg has a sidewalk skylight which uses glass blocks that are placed into cast iron grates; the Mind Blown Glass Studio was given the mold and are now making the glass blocks to fit into the grates;
- Minimum Maintenance/Demolition by Neglect met on October 7 to review process;
- Engine House will be using a Standing Seam Roof from Bridger Steel to replace the rolled roof that blew off;

Other Business:

- Mr. Toews, Chair for the Minimum Maintenance/Demolition by Neglect Committee, updated the Commission on the meeting to discuss the process; he noted the documents created and procedures reviewed to help define process;
- Chair Floyd read a Thank You letter from Mark Speirs for the Outside of Deadwood funds granted to Tomahawk Country Club Golf Course;
- Chair Floyd informed the Commission and public the application for the Historic Preservation Commission opening is available online; deadline to submit your application is October 22.

Adjournment:

There being no other business, the Historic Preservation Commission Meeting of October 8, 2014 adjourned at 6:28 PM.

ATTEST:

Laura Floyd
Chairman, Historic Preservation Commission
Kate Storhaug, Historic Preservation Office/ Recording Secretary