

**DEADWOOD HISTORIC PRESERVATION COMMISSION**

**Wednesday, March 12, 2014 ~ 5:00 p.m.**

City Hall, 108 Sherman Street, Deadwood, South Dakota

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1. Call meeting to Order
2. Approval of Minutes
  - a. Approval of Minutes from February 26, 2014
3. Voucher Approval
4. Old or General Business
  - a. Gateway Monument Signs – Historic Preservation Office
  - b. Roger Brooks International Branding Program support – Historic Preservation Office
  - c. Chinese Coin Conservation project – Historic Preservation Archives
  - d. Portable Baseball History Exhibit – Historic Preservation Archives
  - e. Case #14001 – Optima, LLC – 366 Main St – Continuance on moving / demolition of resource
  - f. Case #14002 – Optima, LLC – 370 Main St – Continuance on moving resource
5. New Matters before the Deadwood Historic District Commission
6. New Matters before the Deadwood Historic Preservation Commission
  - a. Case #14007 – 152 Charles St – Foundation, Siding & Windows – Dennis & Brenda Sabo
  - b. Special Needs / Wood Window Program – 152 Charles St – Dennis & Brenda Sabo
  - c. Special Needs / Siding Program – 152 Charles St – Dennis & Brenda Sabo
  - d. Case #14008 – 157 Charles St – Roof alteration – Patrick Mollman
7. Revolving Loan Fund/Retaining Wall Program Update
  - a. Retaining Wall Applications
  - b. Revolving loan Program/Disbursements
    - i. 152 Charles St – Dennis & Brenda Sabo – Siding Program
    - ii. 152 Charles St – Dennis & Brenda Sabo – Window Program
    - iii. 152 Charles St – Dennis & Brenda Sabo – Rehab Loan
  - 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 1<sup>st</sup> or 3<sup>rd</sup> Wednesday of every month in order to be considered at the next Historic Preservation Commission Meeting.*

**CITY OF DEADWOOD**  
**HISTORIC PRESERVATION COMMISSION**  
**Wednesday, March 12, 2014**

**Present Historic Preservation Commission:** Chairman Willie Steinlicht, Vice-Chair George Milos, Michael Johnson, Lynn Namminga, Chuck Williams, Laura Floyd and Darin Derosier were present.

**Absent:** None

Kevin Kuchenbecker, Historic Preservation Officer; Ms. Terri Williams, City Attorney; Ms. Joy McCracken, Executive Director of NeighborWorks-Dakota Home Services; Robert Nelson Jr., Zoning Administrator; and Mike Runge, Archivist were all present.

**Present City Commission members:** Mayor Chuck Turbiville, Vice-Chair Georgeann Silvernail and Gary Todd were present.

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**All motions passed unanimously unless otherwise stated.**

A quorum present, Chairman Willie Steinlicht called the Deadwood Historic Preservation Commission meeting to order Wednesday, March 12, 2014 at 5:00 p.m. in Deadwood City Hall located at 102 Sherman Street in Deadwood, SD.

**Approval of February 26, 2014 HPC Minutes:**

*It was moved by Mr. Williams and seconded by Mr. Johnson to approve the Minutes of Wednesday, February 26, 2014. Aye – All. Motion carried.*

**Voucher Approval:**

Operating Account

*It was moved by Mr. Milos and seconded by Mr. Namminga to approve the HP Operating Account in the amount of \$32,158.55. Aye – All. Motion carried.*

**Old or General Business:**

Deadwood Gateway Monument Project

Mr. Kuchenbecker noted that during the presentation of Roger Brooks' "A community assessment through the eyes of a visitor", the monument signs at the gateways to Deadwood were identified as not very readable for both the lettering as well as relief masonry pictorials of Deadwood's history and heritage. Due to Mr. Brooks' observation, Mr. Kuchenbecker recommended colorizing the dimensional rectangular brick pictorial portion of all six (6) existing monument signs; this would enhance each of their visual artwork and increase their readability. Mr. Kuchenbecker has been in contact with Mr. Tim Peterson, a local artist and owner of Flat Earth Art and Sign Company, to review the six (6) monuments and provide a recommendation and estimate on the project. Estimated life of the artwork will be 12 to 15 years and will not exceed \$12,545.00 with all work done on site, weather permitting, with the estimated completion date prior to Memorial Day and funding to come from HP Capital Assets. *It was moved by Mr. Derosier and seconded by Mr. Johnson to allow the Historic Preservation to enter into contract with Mr. Tim Peterson to colorize the existing artwork of the six (6) gateway monuments with the cost not to exceed \$12,545.00 from 2014 HP Capital Assets Budget contingent upon the first completed monument to meeting staff's approval. Aye - All. Motion carried.* (The Memorandum is attached hereto on Exhibit A and incorporated herein by this reference.)

Roger Brooks International Branding Program support – Historic Preservation Office

Mr. Kuchenbecker informed the Commission the Deadwood Revitalization Committee would like to bring Roger Brooks back into Deadwood to assist in the development of a "Branding Program" for Deadwood. Mr. Kuchenbecker recommended the Deadwood Historic Preservation Commission allocate up to \$11,000 towards the Roger Brooks "Branding Program" from the 2014 Public Education and Advocacy line item. *It was moved by Mr. Milos and seconded by Ms. Floyd to approve spending up to \$11,000 from the 2014 Public Education and Advocacy budget line to bring Roger Brooks back to assist in development the "Branding Program" for Deadwood*

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***with the stipulation that there are matched funds prior to contract. Aye - All. Motion carried.*** (The Memorandum is attached hereto on Exhibit B and incorporated herein by this reference.)

2014 Deadwood Chinatown Coin Conservation Project – Archives

Mr. Kuchenbecker informed the Commission that approximately 80% of the copper alloy coins recovered from the Chinatown excavations have been infected with bronze disease; this disease is causing decomposition of the copper due to salts found in the ground. Mr. Kuchenbecker recommended allowing the City Archives permission to hire the Maryland Department of Planning to conduct conservation efforts for the one hundred and sixty-eight (168) copper alloy coins not to exceed the amount of \$4,400.00; this is a 2014 City Archives budgeted project. ***It was moved by Ms. Floyd and seconded by Mr. Milos to allow the City Archives to hire the Maryland Department of Planning to conduct conservation efforts on the one hundred and sixty-eight (168) copper coins with the cost not to exceed \$4,400.00 from 2014 City Archives Budget. Aye - All. Motion carried.*** (The Memorandum is attached hereto on Exhibit C and incorporated herein by this reference.)

2014 Portable Baseball Exhibit Project – Archives

Mr. Kuchenbecker recommended allowing the City Archives permission to hire the Siouxland Heritage Museums of Sioux Falls, South Dakota to develop six (6) portable exhibit panels focusing on the history of baseball in Deadwood with funds not to exceed \$6,000.00; this is a 2014 City Archives budgeted project. ***It was moved by Mr. Derosier and seconded by Mr. Namminga to allow the City Archives to hire Siouxland Heritage Museums to develop six (6) portable exhibit panels with the cost not to exceed \$6,000.00 from 2014 City Archives Budget. Aye - All. Motion carried.*** (The Memorandum is attached hereto on Exhibit D and incorporated herein by this reference.)

Optima, LLC Project Approvals for 366 and 370 Main Street

Mr. Kuchenbecker started to discuss his staff report and the supplemental staff report, but was interrupted by Commissioner Floyd regarding possible conflict of interests. She indicated that Mr. Milos is employed at the Chamber of Commerce which receives a large portion of its income through Bids 1-6 which includes Optima LLC properties. Ms. Floyd noted that from the City's numbers, Cadillac Jack currently contributes \$4284 per month to Bids 1-6 and Spring Hill Suites contributes \$325.25 per month for a total of \$4609.25 per month. She then asked Mr. Milos if he felt if there was any conflict of interest on his part. Mr. Milos stated he had discussed this concern with the City Attorney, Mrs. Williams, who informed him that under the South Dakota State Statute SDCL6-1-17, she felt there was no conflict of interest. Mrs. Williams went on to clarify that under the state's statute that an official may not participate in discussing or voting an issue if the official (1) has a direct pecuniary interest in the matter before the governing body; and (2) at least two-thirds of the governing body votes the official has an identifiable conflict of interest that should prohibit such official from voting on a specific matter. With that clarification and the statement that Mr. Milos does not benefit personally from the monthly contributions, Mrs. Williams reiterated that there would be no conflict of interest on Mr. Milos' behalf. No vote action was requested regarding Mr. Milos and the concern for a conflict of interest was settled. Ms. Floyd then proceeded to question Mr. Derosier's conflict of interest, who currently sits on the Board for NeighborWorks. Ms. Floyd stated she didn't know details however had heard the NeighborWorks Board had entered into a contract for the purchase of a lot in which one of the houses under discussion might be placed. She inquired as to whether or not there had been any board action on that and, if there had, whether or not it would constitute a conflict of interest on behalf of Mr. Derosier. Mr. Derosier confirmed he was on the NeighborWorks Board as a Historic Preservation Commissioner; however he has not had any conversations with the NeighborWorks Board of Directors pertaining to land purchased for the use of placing properties in question. Mr. Derosier stated he did not feel there was a conflict of interest as he has not been at any meetings in which the topic of Optima LLC or 366 and 370 Main Street were discussed.

As Mr. Kuchenbecker continued the review for both Case #14001 and Case #14002, he stated everything that has been submitted to date is still relevant to the staff's point of view; he stated the original Staff Reports are part of the recorded minutes for both January 29 and February 12 and should be reviewed and considered. The letters from the City Attorney, National Park Service and State Historic Preservation office are still relevant.

Regarding the application for Case #14001 pertaining to 366 Main Street, it is Mr. Kuchenbecker's understanding that with the amended documentation received from Optima LLC, plan is to relocate the resource with the hopes to have NeighborWorks Services of the Black Hills relocate the resource. To date, Mr. Kuchenbecker stated his office has not seen any of the development costs associated with the proposed site; Mr. Kuchenbecker's understands that there is nothing in writing, but that there may be an offer on a lot contingent on this decision. Mr. Kuchenbecker stated that

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indicating a resource can be moved is one thing but in staff's opinion anything can be moved but at what cost and is the cost reasonable and prudent. He noted that the actual cost of moving and the realistic feasibility and logistics of the move appear to have not been fully taken into consideration and made a part of the submitted application or supporting documentation. He stated that any action allowing the move of 366 Main Street should be contingent upon the Planning and Zoning actions as well as the moving permit itself. Mr. Kuchenbecker stated one question he has is whether or not the commission can make a determination if there are unknown and relevant factors to be considered before taking an action. All planning should be completed as part of an application. He continued to say that if the commission should consider approving the moving of the resource without more details, the decision could jeopardize the resource. At this time Staff does not feel we have firm financial and developmental costs and/ or board approval from the non-profit other than the applicant's supplemental documentation; we do not have a resolution from the Board of Directors of NeighborWorks. Mr. Kuchenbecker questioned if it is in the best interest of the commission to have a building "up on blocks" ready for a move without knowing where it will be located and if the project would be completed. He informed the commission that resources can be put in jeopardy of deterioration and loss when applications are acted upon without proper planning. Mr. Kuchenbecker reiterated that as outlined by the current Deadwood City Attorney, Mrs. Terri Williams, and based on the Attorney Generals opinion, the project shall not proceed until it has been determined there is NO reasonable and prudent alternative and ALL possible planning to minimize harm to the historic property. Mr. Kuchenbecker stated that it is Staff's opinion that all possible planning has NOT been thoroughly presented as part of the submitted application and that ALL reasonable and prudent alternatives have NOT been considered by either the commission or the applicant. While it may be Optima's belief that the relocation of the non-contributing resource at 366 Main Street DOES NOT encroach upon, damage or destroy an historic property, this is contrary to Mr. Kuchenbecker's opinion as outlined in staff report dated January 28, 2014. Mr. Kuchenbecker acknowledges this is a non-contributing resource; however, allowing the resource to be moved or demolished in itself not only is the cause of damage and destruction of the site and setting of the districts, but also the creation of additional surface parking which also causes the damage and destruction and is adverse to the historic property (districts). Mr. Kuchenbecker acknowledged the site and entire strip in this area is zoned commercial highway as outlined in the applicant's response. He noted the zoning code does not prohibit the use of these resources for commercial enterprise. He also reiterated it does not have to be the best use of the property, the most profitable use to be prudent and/or the highest return on the investment; this is further substantiated in the memorandum opinion from the SD Attorney General's office dated December 17, 2013. Mr. Kuchenbecker recognized while the Fountain City planning unit in which these two resources are currently located has undergone a long and incremental process of change through a variety of decisions and court decisions, each application should be reviewed on a case by case basis and is ultimately a decision of the current commission at the time of the action. Mr. Kuchenbecker reminded each commissioner they must use the rules, regulations and guidelines under which to make the appropriate decisions at the time of the application. Mr. Kuchenbecker recapped the purpose of the Deadwood Historic Preservation Commission again is to protect its historic properties including its historic districts and that it is his opinion, as the Historic Preservation Officer, that the application does not clearly define there are no reasonable and prudent alternative to allow the building to remain other than it is not economically feasible based upon the purchase price of the property. Again, he noted this is not a concern of the Historic Preservation Commission. Mr. Kuchenbecker informed the commission the Commercial Highway Zoning is intended to provide locations for commercial uses, which require access to roads and highways and substantial amounts of parking. He stated that maintaining the existing resources in their existing locations does not prohibit or change the Commercial Highway Zoning of this area. Mr. Kuchenbecker noted the resource can still be used for commercial uses as it has access to the road and highway and there is substantial amount of parking nearby. Any action to protect the existing resources does not prohibit the commercial use of these properties. Mr. Kuchenbecker specified while the applicant states additional parking to service Cadillac Jacks / Optima's present hotel, casino and convention center is what is needed, preservation is what is required under the Deadwood ordinances and regulations. He noted that prior to the creation of their parking needs; Optima should have acknowledged the historic preservation rules and guidelines under which the City of Deadwood and the Deadwood Historic Preservation Commission operate. Mr. Kuchenbecker informed the commission over the past twenty-five years, numerous decisions and court cases have shaped this area of the historic district; each decision and court case under the rules and regulation's at the time. He also stated over the past eight years, the City developed and adopted guidelines, improved city ordinances, successfully passed state legislation and strengthened historical preservation in Deadwood. In the past, Mr. Kuchenbecker reminded the National Park Service publically indicated "development and visual integrity are the district's biggest threats." Based upon the decisions and court cases related to this area, Mr. Kuchenbecker feels the Fountain City planning unit faces the biggest development pressures and loss of visual integrity for the historic districts. He continued to state that any action which would further cause the loss of visual and historic integrity of this portion of the district will likely cause the National Park

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Service to move Deadwood back to the "Watch" list or even potential noted as "Threatened" (Priority 1) indicating the National Historic Landmark has suffered, or is in imminent danger of, a severe loss of integrity. Mr. Kuchenbecker reiterated the Secretary of Interior Standards clearly does not recommend "removing or radically changing those features of the district of neighborhood which are important in defining the overall historic character so that as a result to the character is diminished." Based upon the review of his original Staff Report, the supplemental information and what has been provided by the applicant for Case #14001 for 366 Main Street AS SUBMITTED using the guidelines for Undertaking in the City of Deadwood National Historic Landmark District, Mr. Kuchenbecker concluded his opinion is the project DOES cause damage and destroy a historic property included in the national register of historic places and the state register of historic places and again fails to address ALL reasonable and prudent alternative and therefore is adverse to Deadwood. (The Memorandum, Staff Report and Optima's amended documentation are attached hereto on Exhibit E and incorporated herein by this reference.)

Mr. Roger Tellinghuisen, on behalf of the applicant Optima, LLC, stated that his understanding from the last meeting was that they would come back with additional information to address the questions raised by the commission about whether reasonable and prudent alternatives had been taken into consideration. He presented information he had put together in response to Mr. Kuchenbecker's Memorandum to the Deadwood Historic Preservation. Mr. Tellinghuisen recalled that Optima's application for Project Approval for the non-contributing "Shea" house located at 366 Main Street was for "Demolition" with the hopes to save the house by donating it to Neighborhood Housing Services of the Black Hills Inc. He stated since then Neighborhood Housing has secured a purchase agreement for a suitable place to move the house to which is located at Lot 26 of Peck's Subdivision in the City of Deadwood; contingent to the Commission approving the relocation of the Shea House. Mr. Tellinghuisen reiterated the Shea House is not suitable as a single family home as it currently sits on a four-lane highway, next to casinos and located in commercial area. Because of its location Mr. Tellinghuisen asked to keep in mind the Shea house has a value much different than a house that sits in a residential neighborhood. He informed the commission it is not something the client has been responsible for, but simply it is the market place, and Optima went in and paid fair market value for these properties. Mr. Tellinghuisen remarked it was suggested previously these properties could be used as something other than a home, such as a book store, a gift shop or a lawyer's office. He remarked that there has been no one who has stepped forward to show interest in using them as commercial properties. However, given the financial investment to convert to office space, he stated "it doesn't make sense" and noted this would be too expensive of a real estate to be run as a small business. Mr. Tellinghuisen noted a letter received from Mr. Vaughn Smith of A-1 Construction Inc. following a request to analyze current site and building conditions; Mr. Smith's assessment of "putting commercial businesses in the buildings would amount to considerable work to address ADA concerns and existing electrical, plumbing and HVAC work at the minimum." Mr. Smith's assessment estimated it would cost approximately \$69,120.00 just to convert 366 Main Street to office space. Mr. Tellinghuisen also pointed out a letter from Mr. Greg Klein, owner of Century 21 Realty in Deadwood, in which he gave his opinion for the fair market value of the property. Mr. Klein stated the "going rental rate for structures such as this used in a commercial application would fall in the range of ten dollars a square foot." Mr. Tellinghuisen also noted a letter from Mr. Paul Thorstenson, a certified Public Accountant of Ketel Thorstenson, who gave his professional opinion with "appraisal indicating the highest and best use of the property is clearly as a parking lot with a value of \$810,000.00." In his letter he calculated that if converted to small offices or retail space, tenants "would have to be charged an annual rental of over \$30 per square foot to return a fair return on investment" which would be approximately \$34,500.00 per month. (The Optima LLC Presentation including Mr. Smith's, Mr. Klein's and Mr. Thorstenson's letters are found in attached hereto Exhibit F and incorporated herein by this reference.)

Mr. Paul Thorstenson, a certified Public Accountant of Ketel Thorstenson as well as a property owner in Deadwood, reiterated his statements made in the letter previously noted. He stated his estimation of the cost to convert the property would be \$10 per foot or approximately \$33,000.00 of the fair market rental value of the building. Mr. Thorstenson noted this is approximately 1/3 of what is fair to the landlord based on the value of the property. He stated to make a fair return, rent for the property located at 366 Main Street is estimated as 8.5% of the full value of the property per year; this would work out to be approximately \$2,080 per month ( $30 \times 832 / 12 = 2080$ ). Mr. Thorstenson believes using the property as commercial space is not reasonable and prudent.

Ms. Joy McCracken, Executive Director of NeighborWorks, stated after the property was offered to NeighborWorks as a donation, she took it to the Board of Directors who requested research prior to moving forward. Ms. McCracken informed the Commission the NeighborWorks Board would consider the donation if it made sense financial, if it met the mission of their organization and would be contingent upon the decision made by the Historic Preservation Commission to approve Optima's application request. Ms. McCracken informed the commission a site for relocating the

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Shea house was found on Peck Street and they do have a secured purchase agreement on the lot which is subject to if the house can be moved there, if Historic Preservation Commission approved it and the final approval of the NeighborWorks Board of Directors. She stated the next course of action was to locate a mover to survey the site and estimate cost of relocating the Shea house; the mover confirmed it was possible to move the building to Peck Street with limited complications. Ms. McCracken contacted contractors to advise as to what the cost would be to move the house and could it be sold at a reasonable price following all the renovations in the end. She informed the Commission a Realtor estimated the fair market value would be approximately \$130,000 after all is said and done; the contingencies to this amount is determined on whether or not to add a garage. NeighborWorks contacted the following to determine if the relocation would have any obstacles: the Department of Transportation drove the route finding no problems; Black Hills Power reviewed site & route finding no issues; and the City's Public Works did not find issues as well.

Mr. John Coppe of O'Neil House Movers stated they have been in business since 1972; he has been with the company since 1982. Mr. Coppe informed the commission he has personally been involved in reviewing and determining the possibility of relocating the Shea house to the proposed location on Peck Street. Based on his house moving experience Mr. Coppe feels the Shea house "is a very sound little house and very movable" and can be done without damaging the house. Other than removing the small awnings on the sides of the house, Mr. Coppe said it should fit down the road with minimal alterations needed. Mr. Coppe stated the O'Neil House Moving Company has insurance and that he has never lost a house in his career.

Mr. Williams asked as to what permits would be needed and would it be during the day.

Mr. Coppe stated they would need to obtain a State Highway permit for using highway 85 & 14A as well as schedule with the utilities company to swing lights and that the move would take place during the day unless notified otherwise by law enforcement.

Mr. Kuchenbecker noted that NeighborWorks costs incurred during the move should not be a burden to the City, such as the permit cost to be obtained from the City Commission, also will need to obtain "a bond in an amount which in the judgment of the street commissioner will be sufficient to cover any damages to city property which might result from such use of the streets and alleys of the city under the operation of such permit". He noted this would cover any labor associated costs from the City, as defined and required under the City's Code of Ordinances 15.28.020.

Mr. Tellinghuisen believes that in Ms. McCracken's due diligence, the permits along with any moving fees were factored into the overall cost. Ms. McCracken confirmed that was correct.

Mr. Namminga asked if the renovation as commercial use was estimated within NeighborWorks cost of the \$130,000.

Mr. Tellinghuisen clarified that Ms. McCracken had factored in costs as a residential single family home; these renovations are not estimated as high as it would be for commercial use renovations. Ms. McCracken confirmed that was correct.

Mr. Kuchenbecker asked Ms. McCracken whether she had a Budget sheet that outlines the expenses estimated. Ms. McCracken stated she would have to look for it.

Mr. Kuchenbecker also noted that this proposed site for the Shea house is located outside the Historic District.

Mr. Tellinghuisen concurred with that statement it would be relocated to the outside of the Historic District, but wanted to remind the commission the Shea house was a non-contributing structure. Mr. Tellinghuisen addressed the concern that if you move it out of the area it affects the contributing structures in that area, but noted that to make a logical conclusion, that every house, every building in Deadwood is in the same position as the Shea house. He stated that it is one thing when you start approving changes to the outside of a contributing structure, but to be consistent you must also start taking up all those non-contributing structures residents make changes to which he stated he does not think the commission currently gets involved with at this time.

Mr. Kuchenbecker corrected Mr. Tellinghuisen by informing him that the Commission does review non-contributing project approvals while advising residents as to what they can and cannot do to their non-contributing structure. Mr. Tellinghuisen stated he stood corrected.

Mrs. Ilene Brunner, Lillian Shea's niece, stated her aunt was a smart business woman who was well aware her home was to be torn down and replaced by a parking lot. Mrs. Brunner stated that when she left the last meeting and turned down the street by the VFW she noticed the parking ramp structure. She noted Roger Brooks' assessment and one of the three biggest concerns was parking. Mrs. Brunner stated that when she comes to Deadwood, her first

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thought is "will I have a place to park?" She noted that we have a company who is willing to invest in parking for Deadwood; Roger Brooks' said that the City, residents and casinos need to work together to help in creating a solution to this problem. Mrs. Brunner concluded with hope the Commission would approve this project and start moving forward with Deadwood.

Mrs. Marlene Todd, a lifetime resident of Deadwood, stated she grew up at 390 Main and the area of town in question was her childhood neighborhood. She wanted to remind the commission of their duties and purpose which is to preserve the Historic Deadwood. She has lived here since 1956 and joked she qualifies for the Historic Preservation Commission. She spoke with emotion recollecting memories of sitting with her dad, Les Meeker, and Jimmy Shea while listening to them talk about this encroaching business; how it was ruining their neighborhood; how it was tearing down the integrity and the beauty of their community. In 2002 when Mrs. Todd was moving her dad into a nursing home, she remarked on how Mr. Bradsky approached her with interest to purchase the property at 390 Main Street with the intention to buy that whole area to expand into with casino and parking lot. Mrs. Todd was advised at that time that if she didn't want to be the island in the middle, she would consider his proposal. Mrs. Todd asked if that really was reasonable and prudent with all alternatives being investigated for a home 12 years later. She stated that Jimmy Shea's house is being discussed now and it is the island in the middle. She stated Mr. Shea would be appalled at the City if we allowed his home to be moved.

Mrs. Lenessa Keehn, a Deadwood resident, expressed her pride for Deadwood's very historic past and noted there are members in this community who work to maintain Deadwood's historic identity; the efforts of these members petitioning to have it added to the National Register was rewarded in 1961. Mrs. Keehn reminded the Commission that 24 years ago South Dakota voters approved gaming because of the promise that gaming tax revenues would help in preserving our historic resources. She questioned that if Deadwood's Nation Landmark status is lost through arbitrary actions, such as moving the Shea House and Fountain House as well as changing the landscape of the Fountain City District, is there potentially a risk of losing the gaming tax dollars currently dedicated to historic preservation. Mrs. Keehn expressed her concern that if Deadwood loses that \$6.8 Million per year, there may still be gaming, however the fear is the residents and local businesses will ultimately be the ones to pay. Mrs. Keehn pointed out that "your identity will define who you are and Deadwood's identity comes from its historic past. It is where we came from; it is who we are and that same historical identity should guide us into tomorrow." Mrs. Keehn asked each Commissioner to uphold the integrity of the position they hold as a member of the Historic Preservation Committee; she pointed out it is their responsibility to maintain and preserve the historic identity of Deadwood and the status of Deadwood as a National Historic Landmark by voting "No" to the project approvals submitted by Cadillac Jacks. (Mrs. Keehn requested her written statement be put on record; it is attached hereto on Exhibit G and incorporated herein by this reference.)

Mr. Daryl Nelson, the curator for Deadwood History, stated he had two very big observations. First he remarked though all these practical issues are compelling, he argued that they are not the commission's problem; they are the owners problem. He stated other things will happen after this meeting, but the commission's job is to only wear one hat tonight. Secondly he stated that as an outsider, it could easily appear the commission is being asked to benefit one business at the potential loss of all the other entities in town if there is a change to the historic designation of the City.

Mrs. Keehn also was asked by Mr. Gary Herdt, resident at 15 Madison St in Deadwood, to read and submit his statement for the record. Mr. Herdt's letter stated his apology for not be able to appear in person, but as a fairly new resident to Deadwood who purchased a home mainly due to the historical significance of the area. He also urged the committee to say "No" to this issue and to "stop the slow erosion of our historical area and possible threat of Deadwood losing its National Historical Landmark status. (Mr. Herdt's requested his written statement be put on record; it is attached hereto on Exhibit H and incorporated herein by this reference.)

Mr. Gary Keehn stated that first and foremost he is proud to be a longtime resident of Deadwood who was first to become a Historic Landmark District. Mr. Keehn expressed his desire to help uphold the City, noting the number of cops have increased helping to make sure we are doing what we need to do as well as a handful of gaming officials wandering around making sure we are doing what we need to do. He commented to the commission there are "a lot of residents here today who care" enough to make sure the commission does what it needs to do and that the commission makes the decision they are suppose to make. He asked the Commission to show they care and think hard when making the right decision.

Mrs. Carolyn Weber was asked to address the Commission and read a letter on behalf of Mrs. Francy Pike. Mrs. Pike wrote to ask the Commission to deny both proposed project applications for 366 and 370 Main Street as she felt they clearly had an adverse effect on the designated historic properties. Mrs. Pike expressed her concern that if projects

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were allowed to proceed, two resources that have been a part of Deadwood's history for decades will be lost to a parking garage. Mrs. Pike pointed out that as a Historic Preservation Commissioner, each Commissioner serves as the community's protector of the National Historic Landmark District and has a duty to administer the historic regulations. She reiterated that they alone have the absolute duty to preserve Deadwood's National Historic Landmark District status and the structures listed on the National Register of Historic Places. She stated under the regulations the Commissioners have a duty to administer, it provides a clear roadmap to follow. She again expressed her concern that as a whole the commission must not approve the project approval applications as she feels they do encroach upon, damage or destroy a designated historic property especially if there is a feasible and prudent alternative that would prevent such encroachment, damage or destruction. She ended by stating that it is both the duty and authority under SDCL 1-19A-11.1 to deny, as she felt it would be the best for both houses, best for their communities and the best overall for Deadwood's Historic Landmark status. (Mrs. Francy Pike requested her written statement be put on record; it is attached hereto on Exhibit I and incorporated herein by this reference.)

Mr. Tellinghuisen asked to respond to Mrs. Weber to clarify the Shea House is a non-contributing resource and that there is no delisting of this property that would occur.

Mr. Steve Olson referred to comments made by Mr. Tellinghuisen as to why no one has stepped forward to buy these properties. Mr. Olson stated that maybe they didn't have a use for them and stated that just because a car lot has cars, it doesn't mean we need to go in and buy one; he noted that if we have no use for it, why buy it. In referencing the economic feasibility of using these properties, Mr. Olson reminded the commission that economic feasibility is no more your decision than what is done to the inside of those properties. As a member of the commission, he reminded each of the commissioners that the Secretary of Interior Standards for Rehabilitation is their bible and asked the commission follows these standards and deny this application as it was submitted.

Mrs. Sharon Martinisko, a resident and owner of two contributing homes in the Presidential Neighborhood of Deadwood, thanked the Commission for the opportunity to share her opinion and questions regarding the relocation of the homes located at 366 and 370 Main Street. She stated both her husband and she chose to purchase property in Deadwood in 2004 and they moved here in 2010. She said they were attracted to this area due to Deadwood's historical landmark status, its rich history and the strong sense of neighbors and community. As a property owner and resident, she has concerns and questions about the possible relocation of homes in the designated landmark area, especial to outside the historical landmark. She questioned if there was written proof that NeighborWorks has researched the cost of relocation and actually allocated and set aside funds for the relocation and rehabilitation of the house. Mrs. Martinisko asked that whatever the commission's decision that all possibilities are researched and understand all the possible repercussions of their decision; the commission's decision should be based on what is best for the entire Historic Landmark District and for Deadwood. She noted she trusts the commission will take its responsibility it was charged with very seriously and do what is right for all, not just for some. (Mrs. Sharon Martinisko requested her written statement be put on record; it is attached hereto on Exhibit J and incorporated herein by this reference.)

Mr. Dustin Floyd, a resident, business owner and husband of Ms. Floyd, noted to the commission there have been a lot of emotional appeals on this issue since it began. He stated the public comments are great, but that it is also important to remember that the commissioners, as structured, were all appointed to their positions. Mr. Floyd reiterated the importance to keep Historic Preservation away from politics as much as possible and away from emotional issues as well as all that other stuff that gets thrown in there. Being appointed Commissioners, he reminded them they are insulated somewhat from all of that – which is important. Mr. Floyd noted how Mr. Tellinghuisen commented most of the night on economic issues and as a business owner himself, he found that pretty compelling. He also noted that Optima is made up of smart businesspeople that, knowing there were historic preservation standards limiting the uses of these houses in question, but they took a gamble, made an investment decision and purchased these houses anyway. In pointing out Mr. Kuchenbecker's initial comments that economic consideration should not be on the table here, Mr. Floyd reminded them that historic preservation is. He reminded the commission there are two things needed to be considered tonight; first being whether or not it is adverse to move these houses which according to the regional representative of the National Park Service, the State Historic Preservation Office and Mr. Kuchenbecker's staff report, it is adverse; and the second consideration is has all feasible and most prudent alternatives been explored. But as Mr. Floyd quotes Mr. Tellinghuisen from the January 29 meeting, when asked what would happen if the application was rejected, Mr. Tellinghuisen's comment was that "so the Shea house would continue to sit empty and they (the applicants) would continue to maintain it to the minimum standards that the property would need to avoid demolition by neglect." Mr. Floyd stated this statement concludes that there is a feasible and prudent alternative, confirming there is no threat to either structure justifying a reason to move them. He

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commented that as a community we want all our resources to be utilized, not just maintained, but beautified and turned into revenue generating sources if they can. But he also stated we can't force property owners to do something; all we require as a community is properties are maintained to the minimum standards just as Mr. Tellinghuisen committed his clients to doing with his statement. Mr. Floyd informed the commission that it was brought to some of the property owners that Cadillac Jacks is charging an additional \$9.99 Historic Maintenance Fee to some of their guests and since they have not embarked on any historic preservation projects, it is questioned as to where that revenue has truly gone over the past 5 months in which they have been accessing that fee. It is reasonable to assume that it is to cover their legal cost pertaining to the applications of these properties and assuming the success of this application, any cost associated with the transfer of ownership and moving of the buildings. Mr. Floyd reminded the commission they are here to review the facts and make a reasonable decision. He asked them to weigh the facts and protect Deadwood's Historic Landmark Status. Mr. Floyd thanked and noted in appreciation the sacrifices each commissioner makes to sit on this commission and make difficult decisions. (Mr. Floyd requested his written statement be put on record; it is attached hereto on Exhibit K and incorporated herein by this reference.)

Mr. Darin Derosier commented that he understands this is a very serious issue and that he takes his role as a commissioner very seriously.

Mr. Willie Steinlicht remarked on how, as a resident speaking, he wished the community would have come together in prior situations where other properties were lost.

Mr. Larry Shama, resident and business owner, reminded the commissioners who were on years ago that this is all about parking. He stated he had been denied a permit to move a retaining wall to make room for one car stall; he pointed out this request is to move two houses to make room for a parking ramp. He expressed his concern and discord for the fairness, or lack of it, being put out by the commission.

Mr. Steinlicht stated the commission makes their decisions on the Staff Report and information presented before them.

Mr. Shama continued to state how when he drives up and down that part of town, he thinks of Jimmy Shea and Lillian. He is reminded of them because their house is still there. He noted how iconic resources help remind others of the past that made Deadwood what it is today. History is what makes up Deadwood. He concluded by asking what will happen to other iconic, historic properties when their time comes up?

Mr. Namminga wanted to clarify the comment Mrs. Brunner made regarding the car ramp close to downtown. He stated it was a parking lot to start with before the parking ramp was built. Mr. Namminga also noted that building a parking ramp down by the casino will only benefit them as it would be for hotel, casino or patron parking, not for public use to park and would not benefit tourists who would walk to downtown.

Mrs. Brunner asked to make a rebuttal to Mr. Namminga's comment and disagreed with the fact that people could and would use the parking lot other than patrons.

Mr. Derosier questioned Mrs. Brunner's opinion on whether or not Jim Shea would be okay with the relocating of the house. Mrs. Brunner stated that Mr. Shea always said that "anything good for Deadwood was good for him."

Mr. Kuchenbecker asked to correct Mr. Tellinghuisen's statement that the Shea house would not be delisted as it was a non-contributing resource; in fact all resources located within the Historic landmark District are registered within the National Historic landmark register categorized as either contributing or non-contributing. So moving the non-contributing resource outside the district will delist it from non-contributing.

Mr. Tellinghuisen retorted as to what the significance of it being delisted as a non-contributing resource was.

Mr. Kuchenbecker responded by stating he was correcting the comment made by Mr. Tellinghuisen as a clarification.

Mr. Tellinghuisen asked that prior to the vote, he wanted to note the agreement between the City and Cadillac Jacks pertaining to adequate parking or banquets dated November 9, 2004. (The agreement is found in attached hereto Exhibit F6 and incorporated herein by this reference.)

Mr. Kuchenbecker stated this was the first he had seen agreement and noted it served as a limitation of where parking could be provided.

***Based upon all the evidence presented, it was moved by Ms. Floyd and seconded by Mr. Johnson that, though the property located at 366 Main Street is non-contributing, it does contribute to the character of the historic district and that this project DOES encroach upon, damage, or destroy the historic property included in the national register of historic places or the state register of historic places.***

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Mr. Milos stated that he was appointed to the commission to review the evidence, good or bad, and expressed his opinion of what he thinks is right. Mr. Milos is of the opinion that, yes it will hurt district, but he is also of the opinion that the use of houses would be better served in new location, fixed up for a family to live in.

Mr. Derosier stated that he didn't believe moving the property at 366 Main Street is adverse as he doesn't feel it contributes to the historic property it sits next to.

Mr. Namminga stated his concern for moving the Shea house.

***With a motion on the floor, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – Yes; Mr. Milos – No; Ms. Floyd – Yes; Mr. Namminga – Yes; Mr. Derosier – No; Mr. Williams – No; and Chairman Steinlicht – No. Vote was 4 to 3.***

***Based upon all the evidence presented, it was moved by Mr. Derosier and seconded by Mr. Milos that, though the property located at 366 Main Street is non-contributing, it does not contribute to the character of the historic district and that this project DOES NOT encroach upon, damage, or destroy the historic property included in the national register of historic places or the state register of historic places and therefore move to grant project approval.***

Ms. Floyd spoke her concern that the project was being approved without written assurances of what will be done with this house once it is moved. She reiterated that the commission recognized that moving it was not adverse to the district, however the commission still has an obligation to make the best decision for the house, for the neighborhoods and stressed her concern for granting them permission to proceed with the project without having full written agreements that they would treat it with the respect and the attention to detail that it deserves.

In response Mr. Milos expressed his desire to see approval from NeighborWorks Board of Directors as well as financial guarantee to finish project to completion.

***It was moved by Mr. Milos and seconded by Mr. Derosier to make a friendly amendment to the motion to ensure that if the approval passes that it be contingent upon actually receiving approval from NeighborWorks Board of Directors.***

***It was moved by Mr. Derosier and seconded by Mr. Milos to make a second friendly amendment to the motion to ensure it is in compliance with Planning and Zoning codes.***

Ms. Floyd wanted to point out that due to the amendments, she recommended that the application be denied and request a new application be submitted.

Mr. Derosier disagreed and stated that the amendments were quite clear; he didn't see any reason to deny and request new application. Mr. Derosier stated prolonging the decision would just make it worse.

***With a motion on the floor along with the friendly amendments, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – No; Mr. Milos – Yes; Ms. Floyd – No; Mr. Namminga – No; Mr. Derosier – Yes; Mr. Williams – Yes; and Chairman Steinlicht – Yes. Vote was 4 to 3.***

Regarding the application for Case #14002 pertaining to 370 Main Street, also known as the Fountain House, located in the Fountain District, Mr. Kuchenbecker's understanding pertaining to the amended documentation received from Optima LLC, is that if project is approved for relocation of resource, Neighborhood Housing has agreed to be responsible for all costs associated with relocating the house to its new setting. As presented in the proposed plan received last week, the Fountain House would be relocated to a site outside of the Historic Districts and would be delisted as a contributing structure. To date, Mr. Kuchenbecker stated his office has not seen any of the development costs from NeighborWorks associated with the proposed site and moving of structure. Mr. Kuchenbecker reminded the commission that his original staff report as previously presented, the letters from the City Attorney and the opinion of State Attorney General's Office all still prevails; he noted the structure is not to be moved until it has been proven that all reasonable and prudent alternatives have been explored as well as all measures are in place to ensure the move will not harm the historic resource in any way. Mr. Kuchenbecker reiterated that the Secretary of Interior Standards and Deadwood Ordinances, in which the commission is to make its decision, clearly does not recommend "removing or radically changing those features of the district of neighborhood which are important in defining the overall historic character so that as a result the character is diminished." Mr. Kuchenbecker stated that it is staff's opinion the move of 370 Main Street from its current location will have an adverse effect on the historic district and, again, moving it to the proposed site outside the district will cause it to be delisted. As discussed on the previous property, he reiterated that it does not have to be the best use of the property, the most profitable use to be prudent and/or the highest return on

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the investment; this is further substantiated in the memorandum opinion from the SD Attorney General's office dated December 17, 2013. Mr. Kuchenbecker noted the market value of these properties located along the commercial highway, was not staff's concern that it is a historic community as well as a gaming community and that we need to look toward our history's role in making it such. Mr. Kuchenbecker stated that it is staff's opinion that all possible planning has NOT been thoroughly presented as part of the submitted application and that ALL reasonable and prudent alternatives have NOT been considered by either the commission or the applicant. He also noted that even if it is residential, it may not be suitable for families; however the resource still is commercial value to the property. Mr. Kuchenbecker pointed out the concern of the threat to the National Historic Landmarks and visual integrity of this district is greatly increased because of the existing and proposed developments.

Based upon the review of his original Staff Report, the supplemental information and what has been provided by the applicant for Case #14002 for 370 Main Street AS SUBMITTED using the guidelines for Undertaking in the City of Deadwood National Historic Landmark District, Mr. Kuchenbecker concluded his opinion is the project DOES most definitely cause damage and destroy a historic property included in the national register of historic places and the state register of historic places by diminishing the contributing versus non-contributing resources and again fails to address ALL reasonable and prudent alternative and therefore is adverse to Deadwood. (The Memorandum, Staff Report and Optima's amended documentation are attached hereto on Exhibit E and incorporated herein by this reference.)

Mr. Roger Tellinghuisen, on behalf of the applicant Optima, LLC, requested clarification that at the first meeting the application request was to relocate the Fountain house to site at 33 Lincoln Street. Subsequent to the meeting, a new location at Peck Street was considered; however afterwards it was brought to his attention Peck Street was outside the historic district. Mr. Tellinghuisen informed the Commission following this information, the Peck Street as an option has been removed from their proposal. He noted the Springer house was moved from one historic district to another and did maintain its historic status. Mr. Tellinghuisen corrected Mr. Kuchenbecker regarding his reference to the Fountain District as there are no separate districts; it is just made up of one Historic District. He stated that moving the Fountain house from this section of the district to another section of the district will NOT affect the historic status of the resource. Mr. Tellinghuisen referenced the commission to the 2b found in his Exhibit F pointing out the letter he sent to Mr. Kuchenbecker as well as the photo views of the other homes located on Lincoln Street for a comparison to the Fountain house proposed site. Given the financial investment to convert to office space, he stated "it doesn't make sense" and noted this would be too expensive of a real estate to be run as a small business. Mr. Tellinghuisen noted a letter received from Mr. Vaughn Smith of A-1 Construction Inc. following a request to analyze current site and building conditions; Mr. Smith's assessment of "putting commercial businesses in the buildings would amount to considerable work to address ADA concerns and exiting electrical, plumbing and HVAC work at the minimum." Mr. Smith's assessment estimated it would cost approximately \$150,000 just to convert 370 Main Street to office space. Mr. Tellinghuisen also pointed out a letter from Mr. Greg Klein, owner of Century 21 Realty in Deadwood, in which he gave his opinion for the fair market value of the property. Mr. Klein stated the "going rental rate for structures such as this used in a commercial application would fall in the range of ten dollars a square foot." Mr. Tellinghuisen also noted a letter from Mr. Paul Thorstenson, a certified Public Accountant of Ketel Thorstenson, who gave his professional opinion with "appraisal indicating the highest and best use of the property is clearly as a parking lot with a value of \$810,000.00." In his letter he calculated that if converted to small offices or retail space, tenants "would have to be charged an annual rental of over \$30 per square foot to return a fair return on investment". Mr. Tellinghuisen also called the commission's attention again to the Agreement between the City and Cadillac Jack's Gaming Resort dated November 9, 2004 pertaining to the concern for limitation on adequate parking. (The Optima LLC Presentation including Mr. Smith's, Mr. Klein's and Mr. Thorstenson's letters are found in attached hereto Exhibit F and incorporated herein by this reference.) Mr. Tellinghuisen wanted to admit, but not minimize in any way, his awareness the Fountain house is a contributing resource. He asked to keep in mind moving a house was done before, noting the parking lot in front of the City hall use to be occupied by a log structure and noted the Springer house, Allen house and the Arlette house have all been removed. He reiterated that we have not lost our designation, but questions commission preserving historic districts when the city puts up a large readers board at the gateway coming into Deadwood; that he believes wasn't there back in 1961 when historic district was established. Mr. Tellinghuisen's pointed out through time things do change. He stated his appreciation for the difficulty of the commission's job they have to do. But submitted to the commission to take into account what is truly best for Deadwood historically as well as take into account and factor in the economic reality. Mr. Tellinghuisen noted we talk about reasonable and prudent alternatives, but no one has offered an explanation yet that makes any sense that doesn't somehow involve economics. Everything is driven by economics. Casting stones at what gaming has done to Deadwood or how it has destroyed our little town, but gaming has been the engine to allow the tremendous historic preservation that has occurred in this town and to

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occur; without gaming, he noted none of this would have been possible. He asked the commission to be fair and reasonable when reviewing all the information regarding this request, not to destroy, but simply to move the historic structure to another location where it will be put to the use for which it was originally build; which is to provide housing for a single family.

Ms. Joy McCracken, Executive Director of NeighborWorks, concurred with Mr. Tellinghuisen that the Fountain house is a unique because it is contributing and very large. Ms. McCracken stated the consideration was a bit different; the length of the lot was first to be discussed as well as that the Peck Street would cause loss of historic designation, so the site on Lincoln street was reconsidered. She stated after the property was offered to NeighborWorks as a donation, she took it to the Board of Directors who requested research prior to moving forward. Ms. McCracken informed the Commission the NeighborWorks Board would consider the donation if it made sense financial, if it met the mission of their organization and reiterated the NeighborWorks Board approval was contingent to the Historic Preservation Commission approving the project. Ms. McCracken stated the next course of action was to locate a mover to survey the site and estimate cost of relocating the Fountain house; the mover confirmed it was possible to move the building up to Lincoln Street with a couple challenges. Ms. McCracken contacted contractors to bid on preparations needed to move and renovate the inside of house; bids continue to come in at about \$170,000. Ms. McCracken informed the commission the Realtor estimated the fair market value would be approximately \$150,000 after all is said and done. Ms. Floyd questioned the difference of \$20,000 from the cost to move vs the fair market value; Mr. McCracken stated that Optima offered to supplement any loss which she confirmed was not in writing, but a verbal agreement. NeighborWorks contacted the following to determine if the relocation would have any obstacles: the Department of Transportation drove the route finding no problems; Black Hills Power reviewed the site & route finding no issues; and the City's Public Works did not find issues as well.

Ms. Floyd asked how NeighborWorks would address the trees as well as the other obstacles along the proposed route to move the Fountain house from 370 Main Street up to 33 Lincoln Street. Ms. McCracken offered Mr. Coppe of O'Neil House movers to address the questions.

Mr. Tellinghuisen asked to address the trees in question; he noted that there is one tree that hangs out on Van Buren Street that needs to be removed along the route to allow the move of the resource. (Photos of the trees are found in attached hereto Exhibit L and incorporated herein by this reference.)

Mr. Namminga brought up the concern that there is a huge honey bee colony occupying the tree; he commented that since the Honey Bee is endangered, there will need to be a professional Beekeeper needed to remove and relocate these bees.

Mr. Tellinghuisen retorted by asking Mr. Namminga to allow him to finish his statement before Mr. Namminga starts commenting his concerns.

Mr. Tellinghuisen submitted to record a signed statement from Mr. Greg Percevich, owner of the Smith Apartments, who gave permission, in the event the house is moved, to allow three trees in front of the Smith Apartments to be trimmed and/or the tree on the right facing the building to be removed by the professional arborist. Mr. Tellinghuisen stated Mr. Coppe inspected the tree who found it to be hollow, not finding any bees but did find bird nests. (Mr. Percevich's signed statement is found in attached hereto Exhibit M and incorporated herein by this reference.)

Ms. Floyd asked if that was an additional cost.

Mr. Tellinghuisen stated he believes that was factored into her cost. Ms. McCracken concurred with his statement.

Mr. Namminga again asked to address his concern that there is a huge honey bee colony occupying the tree; he stated he has seen them flying around the tree and again stressed that since the Honey Bee is endangered, there should be a professional Beekeeper required to remove and relocate these bees prior to any cutting of the tree.

Mr. Tellinghuisen had no objection to Mr. Namminga's request for removal and relocation of the Honey Bee colony.

Mr. John Coppe of O'Neil House Movers stated they have been in business since 1972; he has been with the company since 1982. Mr. Coppe informed the commission he has personally been involved in reviewing and determining the possibility of relocating the Fountain house from 370 Main Street to the proposed location of 33 Lincoln Street. Based on his house moving experience Mr. Coppe stated the Fountain house "has been remodeled, added onto and found to be quite sound." He stated the original portion of the house, though quite old, is structurally sound; as far as getting it lifted and hauled, he saw no issues other than the fact that there were some clearance issued due to the trees, street lights and other obstacles. Mr. Coppe stated that there would be adequate allowances and clearances given once

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these obstacles were addressed. Mr. Coppe noted that the first two trees are okay to just trim, however the third tree hangs into the street and would need to be removed prior to the moving of the house. He also noted that the lights along the streets would need to be taken down and replaced as they make the move of the structure. Mr. Coppe's understanding is the removing and replacing of the lights would require the cooperation and involvement of the City and Black Hills Power Company. Mr. Coppe stated the O'Neil House Moving Company has cargo and liability insurance and that he has never lost a house in his career.

Mr. Kuchenbecker noted the house is 45 ft. wide and 48 ft. in length. Mr. Coppe concurred the measurement were correct. Mr. Kuchenbecker stated the street is 36 ft. on Lincoln and 28 ft. on Van Buren. Mr. Coppe stated he believed that was pretty close to his measurements. He continued to explain that the difference is made up by the carriage wheels the house will be sitting on while being moved, which will give the allowances and clearance needed to maneuver the streets. He also stated that there may be spots where bushes may need to be trimmed back and a specific wrought iron fence that will need to be removed. Mr. Coppe went on to state that even so, the house itself will fit the dimensions of the site proposed.

Mr. Kuchenbecker thanked Mr. Tellinghuisen for correcting him when he misspoke regarding the Fountain City Planning Unit, which Mr. Kuchenbecker confirmed as is just that, a planning unit, and is separate term but part of the Historic District; however remarking that his Staff Report notes it correctly as a planning unit within the district. Mr. Kuchenbecker reiterated there has been an erosion of fabric within this portion of the district and those were done over a course of years by the decisions of this body under the rules and regulations of that time. Over the last eight years Mr. Kuchenbecker was hired to protect and preserve the historic district. There has been work to strength those rules and regulations from city ordinances to mending and changing state law to get definitions on protecting historic property. Mr. Kuchenbecker voiced his concern for the fact there has not been any written submission from Ms. McCracken accounting for the cost of the move pertaining to the removal of lights, trees, and now fences as well as the reimbursement back to the City for costs that may be imposed on it. Mr. Kuchenbecker again stated that because there is not a complete application submitted for all the proposed changes, it is staff's opinion to deny as submitted.

Ms. Floyd reiterated the fact history is a non-renewable resource. She stated that Optima knew when they acquired the properties where historic properties existed that were protected by historic preservation. She agreed that the district in question is being eroded, losing its visual integrity and a lot of its character. Ms. Floyd expressed her concern that the big enterprises have been picking these resources apart bit by bit through the years. She referenced the Wild Bill Statue that was up in Mt. Moriah; it was chipped at by tourists and visitors and in the end it was decimated to the point you can't recognize who it previously resembled. She noted that this district is the Wild Bill on that side of town and it has been damaged; it has holes in it and it is hard to resemble what it used to look like, but you can still see it used to be a historic district. If the holes are chipped away more, she stated it will get to the point when there is no going back. Ms. Floyd asked for commission to consider whether or not we can save this district; if we don't try, it will leave a serious "black eye" on Deadwood's history.

Mr. Namminga informed the commission that when he moved to Deadwood in 1996, he purchased a historic home. He noted that "the commissioners of that time made many, many bad decisions that caused some destruction of historic buildings in Deadwood." He raised a big concern about it back then a number of times. Mr. Namminga stated he would guarantee that if Optima were allowed to move both these houses, they would eventually get all of them and take them down. He expressed his concern that there would be nothing left resembling the history in that district, but instead a reflection of commercialism stripping away our history.

Mrs. Marlene Todd reiterated to the Commission their duties are to protect and preserve Deadwood's history. She concurred with Mr. Namminga's concern that it will spread and will become non-existent if the commission continues to approval projects that endangers historic properties. From her experience of living in Deadwood and driving up and down that stretch of highway, she recalled seeing the Shea's out in their yards. She expressed her sadness for the inevitable, but also her desire to stay in Deadwood and to help keep the history prevalent where it is. Because there nothing in writing as a deadline, bonds, etc. except what Optima has stated for the record, Mrs. Todd asked that the commission truly consider carefully their decision and what is best for Deadwood.

Chairman Steinlicht agreed their duty is to protect and preserve Deadwood's history, however in the Presidential area where he lives; houses are going to shame due to demolition by neglect.

Mr. Mark Speirs agreed with Chairman Steinlicht stating he would like to address that. He asked if anyone could agree the Springer house, which was moved to the Presidential Neighborhood, has been restored to any acceptable terms agreed upon prior to moving.

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Mr. Derosier told Mr. Speirs he needed to back off on the owner of the Springer house as the person who owned the property had died and it was under probate.

Mr. Speirs noted he had the right to bring it up as the owner was alive within the years' time from the time of the house being moved and lived way past the year in which a deadline was set for terms to be met. He stated the owner was a good man and he would defend him to the hilt, but today, that house is an eye sore in the neighborhood; with that it is relevant to his comments. Mr. Speirs reiterated there are over five homes in the Presidential neighborhood that are currently under the listing of demolition by neglect; he pointed out that the commission needs to address those issues. Mr. Speirs asked what assurances have been given here tonight that the Shea house or Fountain house will not end up like the Springer house, a wreck or run down. Twenty years ago, Mr. Speirs stated he had tried to do something and still, nothing has been done. He concluded that the commission should not want to continue to approve this project without some financial assurances that the Fountain house will not end up like any of those homes that are eye sores and in tough shape only to continue to fall down.

Mr. Wayne Morris, owner of property adjacent to the Fountain house, noted there has been a lot of discussion regarding this area. He stated that nothing has ever been offered to him by Bradsky to obtain his property. Giving a little history on the area, Mr. Morris informed the commission the area he owns property was in pretty bad shape; other properties around his were listed for sale, but he never saw anyone lining up to buy them. His opinion is that it looks more appropriate as it is now, then it was. He emphasized there is millions of dollars invested in commercial property there that will never be converted back to residential. He expressed there has never been any bad relations or ill will with the Bradskys.

Mrs. Sharon Martinisko, a resident and owner of two contributing homes in the Presidential Neighborhood of Deadwood, concurred with Mr. Speirs statement that their neighborhood has several houses in need of the commissions support to bring them up to standards. She expressed her concern that they will have another house moved up there that will take down trees, light posts, bushes and personal fencing and might even take out the bench on the corner. She questioned the commission on what will happen to her neighborhood as they are not only impacting where the house sits by removing it from where it currently sits as well as impacting her neighborhood by moving it there. She asked the commission how fair is it that you put it in her back yard and basically say "you deal with it or embrace it, accept it." That doesn't sound like a commission that is trying to preserve and protect historic properties. She informed that making the right decision doesn't mean trading one problem for another. And she concluded that she has not yet seen any assurances from Optima or the commission that states it will be done correctly, that it is financial committed to as well as assurance her neighborhood will be preserved. Mrs. Martinisko expressed how proud she is to live in the Presidential area and so are all the residents sitting with her tonight; she asked if the commission has assurances on paper and in writing that, if approved, outlines how it will be done, correctly and fair to her neighborhood.

Chairman Steinlicht stated Dr. Gilbert came in front of the commission requesting to replace the trees on Lincoln due to rotting and being split; his request was denied. Mr. Steinlicht noted it should be in the minutes for that meeting.

Mr. Milos asked if the lot is currently for sale which Mr. Speirs concurred as correct. Ms. McCracken stated she had it under contract.

Mr. Kevin Kline, manager of the Smith Apartments, stated Mr. Percevich was not excited about having his trees cut down for one; he also concurred that there is a Honey Bee hive in the tree which has been there since 1902.

Mr. Derosier informed Mr. Kline of the Mr. Percevich signed statement; Mr. Kline was not aware of it and said that is contrary to their last discussion on the matter of allowing the tree to be cut down.

Ms. Floyd asked if Mr. Percevich was receiving anything in return for cutting the tree down. Mr. Tellinghuisen stated he was being given a new tree to plant to replace the old.

Ms. Floyd asked Ms. McCracken to again clarify where the NeighborWorks stands on receiving the donation.

Ms. McCracken informed the Commission the NeighborWorks Board would consider the donation if it made sense financial, if it met the mission of their organization and would be contingent upon the decision made by the Historic Preservation Commission to approve Optima's application request. She stated the only minor cost not financial set is the cost to the City for labor associated to the move.

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Mr. Derosier expressed concern as addressed earlier in that Optima will make sure the house is complete without an adverse effect on the neighborhood to which it is moved. Mr. Derosier stated that, if approved to move, he wanted an assurance that the house is done completely, appropriately and in a timely fashion.

Ms. Floyd stressed that these concerns voiced tonight that encompasses so many things are not noted in the application. She asked that the commission take in consideration that the application as submitted. She is extremely uncomfortable with granting approval on a project without having the concerns on the record and explained in detail. Ms. Floyd expressed her hesitation to make a decision on a verbal agreement which will affect a contributing structure that will affect two separate neighborhoods and planning units. She again asked the commission to consider that when they decide to vote.

Mr. Namminga expressed the cost of \$170,000 is a very high market value for a house in Deadwood. He questioned the possibility of selling the house. Ms. McCracken stated she had done research and came up with comparable property.

Mr. Kuchenbecker informed the commission that 3 Pearl Street, referenced by Mr. Speirs, was sold recently. For clarification he referenced the map displaying the history of the commercial highway in questions; he noted they were all done under the rules and guidelines of that time. With that said, Mr. Kuchenbecker asked the commission to view the information under the rules and regulations as they exist today. With the map displaying each resource on a case by case basis, he asked the commission to note the deterioration of the district as it spanned from 1989 through 2014. Mr. Kuchenbecker was asked to clarify the map key: Red outlines structures moved or demolished; Blue outlines contributing structures; and Green outlines the non-contributing structures; along with the key, it notes the responsible party associated with each project. (The Map is attached hereto as Exhibit N and incorporated herein by this reference.)

***Based upon all the evidence presented, it was moved by Ms. Floyd and seconded by Mr. Namminga that, though the property located at 370 Main Street is contributing, it does contribute to the character of the historic district and that this project DOES encroach upon, damage, or destroy a historic property included in the national register of historic places or the state register of historic places. Aye - All. Motion carried.***

***With a motion on the floor, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – Yes; Mr. Milos – Yes; Ms. Floyd – Yes; Mr. Namminga – Yes; Mr. Derosier – Yes; Mr. Williams – Yes; and Chairman Steinlicht – Yes. Vote was unanimous.***

***It was moved by Ms. Floyd and seconded by Mr. Namminga that based upon the Deadwood Codified Ordinances under Chapter 17.68 and the standards for historic preservation, restoration and rehabilitation projects adopted by rules promulgated pursuant to SDCL 1-19A & 1-19B, et seq, the project was found to be ADVERSE to Deadwood and moved to DENY the project as presented.***

Mr. Milos expressed that voting against Ms. Floyd's motion to deny will hurt the resource in the end. He stressed his opinion the area in Fountain City Planning Unit is gone.

Ms. Floyd asked Mr. Milos if he felt comfortable with how the application and amendments stand without a written assurance Optima will follow thorough with their verbal proposals heard tonight.

Mr. Milos felt confident that with the current written application and amendments as submitted, there could be contingencies made to insure the project moves forward correctly. He again expressed that he felt they were doing the right thing with the property by moving it to Lincoln Street.

Ms. Floyd expressed that there are assurances the commission need to guarantee prior to allowing Optima to proceed with the moving of the resource; assurances that is not going to cause a future adverse issue for Deadwood. She also noted that if it was denied Optima has the option to reapply with all the required documentation firmly in place, signatures, assurances, as discussed this evening. Once approval has been granted, Mr. Floyd pointed out that the "What if" factor could come into play; what if after the final cost come in it turns out the NeighborWorks Board states it is too much risk. She noted that they could take in one of the houses that are already sitting in presidential neighborhood and rehab it at half the cost of the Fountain house. She expressed her feeling that it is not in the best interest of the commission to allow this project to be approved without those assurances, without having them written down as a safety belt for the commissions historic concerns.

Mr. Namminga asked whether or not it was true the Fountain house was used to board Cadillac Jack's employees.

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Mr. Bradsky confirmed that international help did stay there.

Mr. Namminga asked why the Fountain house could not be cleaned up and continued to be used as such.

Ms. Floyd stated it was her opinion it was not the highest or best use for Optima. Stressing that the commission is not concerned with the highest economic and best use, she stated that the concern of the commission was the best way to preserve and protect what we have of Deadwood's history. She questioned why the commission should consider Optima's economic interest when that is not our duty. It is correct that preserving it for its history is not the highest or best use, however that is the duty of the commission. Ms. Floyd stated that if Optima choose to maintain it to the minimum standards and do nothing with the resource because they don't like the decision the commission made, that is Optima's choice; it doesn't make any sense, but they can do that. Ms. Floyd pointed out that Optima did state they would maintain it on that location; which according to the State, the National Park Service and Mr. Kuchenbecker's staff report states it is the best thing for this historic resource. She stated the commission discussed reviewing all reasonable and prudent alternatives and, when it comes down to it, maintaining it at its current location is doing just that – maintaining its history.

Mr. Derosier agreed, however questioned whether or not having the resources sitting empty is reasonable and prudent.

Chair Steinlicht inquired that if NeighborWorks Board not approves anything until the Historic Preservation Commission approves it or if Board finds it not financially feasible, would Optima cover all financial responsibilities over and above what NeighborWorks can put into the project.

Mr. Tellinghuisen confirmed to the commission that Optima has informed NeighborWorks they would guarantee a 10% return on whatever their investment is on the sale of the house. Mr. Tellinghuisen continued stating he understood Ms. Floyd was struggling with a motion and that she was "in a tizzy about concerns presented here tonight". Mr. Tellinghuisen stated the commission has the right to approve the moving of the house with a contingency that Neighborhoods Board approves the cost to move, relocate and refurbish it; if NeighborWorks does not approve it, he stated Optima would not be able to move it and they would need to come back to the Commission.

Ms. Floyd corrected Mr. Tellinghuisen stating she was "all in a tizzy" about the prospect of moving a historic resource out of a historic district to the detriment of the overall quality of Deadwoods' Historic Landmark District. She continued to state that Deadwood is losing these homes one by one and one of these days, one of these houses will be the last straw in jeopardizing Deadwoods historic designation; she did not want that to be on her. Ms. Floyd stated the best possible option for the house, for that part of the district as well as the whole district, has been stated by Optima they would give us that option; she continued that instead they are choosing a course that will harm all of these aspects and in doing so, shows Optima's lack of respect for the history in Deadwood or you could find a use for the resource that was appropriate, even if it isn't the highest and best use, but appropriate never the less. In doing that Optima would get some return out of there source and in doing so, shows Optima does care and wants to be responsible stewards toward Deadwood's history by doing so, not just saying so. Ms. Floyd continued to state that is the position she feels she needs to follow as a Historic Preservation Commissioner whose duty is to protect and preserve Deadwood History as best she can.

Mr. Milos corrected Mr. Tellinghuisen by stating Ms. Floyd as passionate, not necessary a tizzy.

***With a motion on the floor, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – Yes; Mr. Milos – No; Ms. Floyd – Yes; Mr. Namminga – Yes; Mr. Derosier – No; Mr. Williams – No; and Chairman Steinlicht – No. Motion failed with a vote of 3-Yes to 4-No.***

***Based upon all the evidence presented, it was moved by Mr. Derosier and seconded by Mr. Milos that, that based upon the Deadwood Codified Ordinances under Chapter 17.68 and the standards for historic preservation, restoration and rehabilitation projects adopted by rules promulgated pursuant to SDCL 1-19A & 1-19B, et seq, the project was found to be ADVERSE to Deadwood, but the applicant has explored ALL REASONABLE AND PRUDENT ALTERNATIVES, and so moved to APPROVE the project as presented contingent upon the NeighborWorks Board of Directors approval that it be moved and completed within a reasonable timeframe of 1 year as well as the approval of Planning and Zoning Commission.***

***With a motion on the floor, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – No; Mr. Milos – Yes; Ms. Floyd – No; Mr. Namminga – No; Mr. Derosier – Yes; Mr. Williams – Yes; and Chairman Steinlicht – Yes. Motion approved with a vote of 4-Yes to 3-No.***

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**New Matters before the Deadwood Historic District Commission:**

No applications were addressed at this meeting.

**New Matters before the Deadwood Historic Preservation Commission:**

Case # 14007 – 152 Charles Street – Dennis and Brenda Sabo

Mr. Kuchenbecker informed the Commission the applicant requests permission to finish the wood foundation and pour cement floor against walls and footings as well as repair and replace windows and siding on 152 Charles Street as submitted. (The application is attached hereto on Exhibit O and incorporated herein by this reference.) ***Based upon all the evidence presented, it was moved by Ms. Floyd and seconded by Mr. Namminga 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 as submitted for 152 Charles Street. Aye - All. Motion carried.***

A Special Needs-Siding Program application has also been submitted. (The application is attached hereto on Exhibit O and incorporated herein by this reference.) ***It was moved by Mrs. Milos and seconded by Mr. Johnson to enter Dennis and Brenda Sabo into the Special Needs-Siding program based on information as submitted for 152 Charles Street. Aye - All. Motion carried.***

A Special Needs-Windows Program application has also been submitted. (The application is attached hereto on Exhibit O and incorporated herein by this reference.) ***It was moved by Mrs. Milos and seconded by Mr. Johnson enter Dennis and Brenda Sabo into the Special Needs-Windows program based on information as submitted for 152 Charles Street. Aye - All. Motion carried.***

Case # 14008 – 157 Charles Street – Patrick Mollman

Mr. Kuchenbecker informed the Commission the applicant requests permission to re-roof building with a 3' x 6' parapet to enclose new roof and paint exterior on 157 Charles Street as submitted. (The application is attached hereto on Exhibit P and incorporated herein by this reference.) ***Based upon all the evidence presented, it was moved by Ms. Floyd and seconded by Mr. Williams 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 as submitted for 157 Charles Street. 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. Milos and seconded by Mr. Namminga to approve the HP Revolving Loan Fund disbursement in the amount of \$235.00, based on information as presented by Ms. Joy McCracken, Executive Director of NeighborWorks-Dakota Home Services. Aye - All. Motion carried.*** Delinquency Report was reviewed and updates on projects were given. Overview of the Revolving Loan Fund was presented.

152 Charles St – Dennis Sabo

***It was moved by Mr. Milos and seconded by Mr. Namminga to approve the Special Needs Siding Program loan to Dennis Sabo, 152 Charles St, in the amount of \$10,000.00, as presented. Aye- All. Motion carried*** (The NeighborWorks packet is attached hereto on exhibit Q and incorporated herein by this reference.)

***It was moved by Mr. Milos and seconded by Mr. Namminga to approve the Special Needs Windows Program loan to Dennis Sabo, 152 Charles St, in the amount of \$3,000.00, as presented. Aye- All. Motion carried.*** (The NeighborWorks packet is attached hereto on exhibit Q and incorporated herein by this reference.)

***It was moved by Mr. Milos and seconded by Ms. Floyd to approve the Revolving Loan Fund to Dennis Sabo, 152 Charles St, in the amount of \$10,000.00, as presented. Aye- All. Motion carried.*** (The NeighborWorks packet is attached hereto on exhibit Q and incorporated herein by this reference.)

51, 53, 55 Sherman St – Mary C Larson

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*It was moved by Mr. Milos and seconded by Mr. Namminga to refinance loan to Mary Larson for 51, 53 and 55 Sherman St, in amount of \$299,797.00 as presented. Aye- All. Motion carried.* (The NeighborWorks packet is attached hereto on exhibit Q and incorporated herein by this reference.)

36 Jackson St – Peggy Fierro

*It was moved by Ms. Floyd and seconded by Mr. Derosier to approve the Subordination Request for all loans for Peggy Fierro, 36 Jackson St, in amount of \$25,171.32 as presented. Aye- All. Motion carried.* (The NeighborWorks packet is attached hereto on exhibit Q and incorporated herein by this reference.)

**Retaining Wall Program/Disbursements:**

No disbursements were addressed at this meeting.

**Items from Citizens not on Agenda**

Mr. Steve Olson addressed the Commission regarding the way the meeting was held and advised the Commission to become familiar with the "Roberts Rules of Order". Mr. Floyd expressed her interest and asked Mrs. Williams, Deadwood's City Attorney, what her recommendation would be for obtaining that information. Mrs. Williams suggested looking online or advised the Historic Preservation Office make available to the Commission copies of the "Roberts Rules of Order" books.

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

Mr. Kuchenbecker reported on the following items:

- The Historic Preservation Commission's next meeting will be on March 26, 2014 at 5:00 PM.

**Other Business:**

**Adjournment:**

There being no other business, the Historic Preservation Commission Meeting of March 12, 2014 adjourned at 8:32 PM.

ATTEST:

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Willie Steinlicht

Chairman, Historic Preservation Commission

Kate Storhaug, Historic Preservation Office/ Recording Secretary