

DEADWOOD HISTORIC PRESERVATION COMMISSION

Wednesday, March 26, 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 March 12, 2014
3. Voucher Approval
4. Old or General Business
 - a. Roger Brooks – Brand Camp
5. New Matters before the Deadwood Historic District Commission
6. New Matters before the Deadwood Historic Preservation Commission
 - a. Case #14005 – 300 Main St – Demolition – M.R. Gustafson
 - b. Case #14009 – 130 Charles St – Windows – Ensminger
7. Revolving Loan Fund/Retaining Wall Program Update
 - a. Retaining Wall Applications
 - b. Revolving loan Program/Disbursements
 - c. Retaining Wall Program/Disbursements
8. Items from Citizens not on agenda (*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, March 26, 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: Vice-Chair Georgeann Silvernail, Jim Van Den Eykel and Gary Todd were present.

All motions passed unanimously unless otherwise stated.

A quorum present, Chairman Willie Steinlicht called the Deadwood Historic Preservation Commission meeting to order Wednesday, March 26, 2014 at 5:00 p.m. in Deadwood City Hall located at 102 Sherman Street in Deadwood, SD.

Approval of March 12, 2014 HPC Minutes:

With minutes not yet finalized, Chair Steinlicht noted the approval of Minutes for Wednesday, March 12, 2014 will be continued to the next HPC meeting scheduled for Wednesday, April 9, 2014.

Voucher Approval:

Operating Account

It was moved by Mr. Johnson and seconded by Mr. Williams to approve the HP Operating Account in the amount of \$41,306.96. Aye – All. Motion carried.

Old or General Business:

Roger Brooks International Branding Camp

Mr. Kuchenbecker updated the Commission on the status of efforts to bring Roger Brooks back into Deadwood to assist in the development of a "Branding Program" for Deadwood. He stated the Deadwood Chamber of Commerce voted this week in support of finding funding for their share of \$11,000 to have Roger Brooks back in July. He also informed the commission the Downtown Business Association will be taking action at their next meeting schedule the first part of April; the City Commission has it as an agenda item to discuss at its next meeting on April 7, 2014; and Bid 7 will also be discussing it at their next meeting. There has been stakeholder support for funding of the \$65,000 to get Roger Brooks for Branding Camp to take place on sites in May, June and July. Mr. Kuchenbecker confirmed commitment of funds from Deadwood Historic Inc. for \$10,000 and Historic Preservation Commission for \$11,000.

New Matters before the Deadwood Historic District Commission:

No applications were addressed at this meeting.

New Matters before the Deadwood Historic Preservation Commission:

Chairman Steinlicht asked for clarification of meeting structure from City Attorney Ms. Terri Williams. Ms. Williams suggested the Commission listen to the Staff Report followed by the applicant; then if they choose to allow public comment, but advised to restrict any questions or comments from the public to be directed to the Commission, not directly to Staff or Applicant.

Case # 14005 – 300 Main Street – Demolition – M.R. Gustafson

Prior to Staff Report Ms. Floyd addressed Commission regarding possible conflict of interests. She indicated that Mr. Milos is employed as the Director at the Chamber of Commerce which receives a large portion of its income through Bids 1-6 which includes First Gold who has the application here this evening. Ms. Floyd noted from the City's numbers, First Gold currently contributes \$49,660 per year to Bids 1-6 and 96% of the bids funding in amount of \$578,000, do go directly to the Chamber which pays Mr. Milos salary. She stated there have been comments made as to why this

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would not constitute a conflict of interest; however she expressed her personal feel that it does, therefore asking for a vote from the commission on the Conflict of Interest. ***With direction from Ms. Williams on how to proceed, Ms. Floyd made a motion that commissioner Milos has a Conflict of Interest and asked that he not be allowed to vote on Case # 14005.***

With a motion on the floor, Chairman Steinlicht moved for a Roll Call of the Commissioners that was as follows: Mr. Johnson – Yes; Ms. Floyd – Yes; Mr. Namminga – Yes; Mr. Derosier – No; Mr. Williams – No; and Chairman Steinlicht – No. Because there was a tie vote of 3 to 3, there is not a majority and therefore Mr. Milos is allowed to proceed in voting.

Mr. Kuchenbecker informed the Commission the applicant requests permission to demolish the last section of the original Sinclair Station which is a contributing structure located in the Fountain City Planning Unit in the City of Deadwood. Mr. Kuchenbecker stated the M.R. Gustafson Family Trust purchased the Sinclair Station in 2006 with statements on record of the intent at purchase to demolish the building to make way for additional parking. He noted that on November 1, 2007, the Deadwood Historic Preservation Chairman received notification from Mr. Gustafson of his intent to demolish the structure under SDCL 1-19B.27 giving the City a 180 day notice. Mr. Kuchenbecker continued by noting the City of Deadwood, through the actions of the Deadwood City Commission and the Deadwood Historic Preservation Commission appealed the request for demolition to the Circuit Court who ruled in favor of Mr. Gustafson; however the City of Deadwood and the Deadwood Historic Preservation Commission appealed to the Supreme Court of the State of South Dakota. Mr. Kuchenbecker noted an opinion by the SD Supreme Court was filed on January 13, 2010 which reversed the decision of the circuit court under SDCL 1-19B.62 and the applicant would need to through the City's review process under the Deadwood Historic Preservation Commission through DCO 17.68.020.

Mr. Kuchenbecker continued by stating that following this ruling, at the property owner's request, staff had several discussions with the owner regarding options available for rehabilitation of the resource. He stated during those discussions throughout the course of 2010 and 2011, they discussed tax incentives and the revolving loan funds available through the Historic Preservation Commission; the owner did not take advantage or pursue any of those incentives for rehabilitation.

Mr. Kuchenbecker stated that in March 2011, Mr. Gustafson applied for a project approval for the rehabilitation of the Sinclair Station; this application was a compromise to allow the applicant additional parking and to mitigate or at least minimize any adverse effect on the historic property and the historic district. He stated the application was for the removal of portions of the structure including a lean-to addition at the rear of the resource as well as a garage wash bay; in addition a large section of the hillside was allowed to be removed as a compromise in return for the rehabilitation of the resource. Mr. Kuchenbecker pointed out under the agreed upon compromise, the Deadwood Historic Preservation Commission approved the application for Project Approval on March 23, 2011 with understanding that as outlined in the application and discussions there would not be an adverse effect. Mr. Kuchenbecker stated in July 2011 Mr. Gustafson was issued a building permit for the removal of the approved structures and the beginning of the hillside cut. This was necessary for the preparation of lifting, move and foundation work for the Sinclair Station. Mr. Kuchenbecker stated its his opinion this building is relatively small in size and the repairs are actually similar in comparison to other resources the Historic Preservation office has actively been involved with in successful rehabilitations. He commented if this structure is to be considered "too far gone" as a bench-mark, Deadwood would lose several other resources which are in far worse conditions.

He continued stating that in 2012 his office along with the Building Inspector required the architect conduct a property inspection as an interim look at the structure. He also noted they attempted several times to inquire as to why further rehabilitation work was not being completed; the responses he received from the applicant indicated no funding or that they were waiting for ground to settle around the building. Mr. Kuchenbecker informed the Commission on July 30, 2013, the City of Deadwood issued a Notification of Violation(s) for property maintenance under DCO 15.01.010 giving Mr. Gustafson sixty (60) days to remedy the violation and bring the building up to compliance with the 2012 International Property Maintenance Code. He continued to state on August 13, 2013 Mr. Gustafson appealed to the City of Deadwood's Board of Appeals and Examiners; this appeal was heard by the Board of Appeals and Examiners on October 29, 2013 at which time the Board ruled in favor of the Building Inspector that Mr. Gustafson was in violation of the code. Mr. Kuchenbecker informed the commission that during the October 2013 winter storm, the canopy collapsed and was immediately allowed to be removed for safety reasons. He commented both the 1991 and the 1993 Deadwood Historic Surveys of the Sinclair Station indicated the structure was in good condition as also evident in the

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2008 architectural survey done with photographic evidence; and he even noted that in the March 2011 application it was evident that the building was in better condition than it was today.

Mr. Kuchenbecker reiterated the most reasonable and prudent alternative to demolition is to follow through with the original rehabilitation plans as initially submitted approved by the Deadwood Historic Preservation Commission. Based upon the review of this project for 300 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 (the Sinclair Station as well as the historic districts) included in the national register of historic places and the state register of historic places and again fails to address ALL reasonable and prudent alternatives and therefore is adverse to Deadwood. Mr. Kuchenbecker asked the Commission if this is what they, as a Historic Preservation Commission, want to set as a precedence allowing the applicant to have what they want, not do what they say and reward them for their adverse actions. (The Memorandum, Staff Report and Mr. Gustafson's application are attached hereto on Exhibit A and incorporated herein by this reference.)

Ms. Kim Morris, Marketing Director for First Gold, spoke on behalf of Mr. Mike Gustafson, owner of First Gold Hotel. She explained that in the first part of October "the Sinclair Station sustained major, irreparable damage" and that the awning was demolished; the roof on part of the existing Sinclair caved in; the stucco was severely damaged as well as other structural damage. All of this damage along with previous internal mold problems warranted stripping the building down to the studs and rebuilding the Sinclair. Ms. Morris stated that by rebuilding the Sinclair it would no longer be authentic or have any historic value and it would become a replica. Ms. Morris informed the Commission it is for those reasons that First Gold is asking for a Demo Permit.

Mr. Doug Stafford, resident of Upper Main Street for 27 years, expressed his opinion that "the Sinclair Station has become an eyesore". He stated it should be demolished or removed, not restored. Mr. Stafford expressed that the Historic Preservation does a lot a wonderful things like repainting the houses, offering retaining wall grants and other nice things. But he noted the Sinclair Station is the first thing people see and it is an eyesore; he continued that he did not think it can be restored and if anything, Mr. Stafford agreed with Ms. Morris that it would be a replica if it was rehabilitated. He referenced the Methodist Church he attended until it was tore down; he stated to save the church would have taken a lot of money, but it was torn down and replaced by a park. Mr. Stafford reiterated that it was an eyesore and it needs to be taken down.

Mr. Derosier stated he sat on the Board of Appeals and Examiners that found First Gold guilty of minimal maintenance on October 29, 2013. He explained in that meeting it was discussed that First Gold was in violation of minimum maintenance; there was no question on that.

Mr. Dustin Floyd, a resident, business owner and husband of Commissioner Laura Floyd, thanked the commission for their hard work and sacrifices each make acknowledging their job is not an easy one. In addition Mr. Floyd expressed his respect and thanked Commissioner Milos for being one of the few to take the time to explain his stand on the way he voted. Mr. Floyd stated he has heard stories from neighbors about past Historic Preservation Commission decisions made and "pretty big blow-ups between people" that occurred a long time ago, prior to any of the current commissioners' appointments; he noted how we smile now when referring back to those fights that took place over silly stuff, yet there were some that were about serious and significant topics. Mr. Floyd referenced one disagreement between Mr. Derosier's father and Jim Shea. Mr. Floyd stated whether it was serious or significant, past commissioners fought with passion for what they believed in; he asked the commission that, no matter what side it is, for each commissioner fight for what they believe in. Mr. Floyd said, "If you believe it is right to grant the applicants request, fight for it; if not, fight for that too." Mr. Floyd asked the commission to consider in general fairness how they could grant the applicant, who had previously committed to repairing a historic property and promised to maintain it, only to not follow through on their word and then wait until a storm to come through to damage the structure, approval of a demolition request. As a resident, Mr. Floyd stated it is hard to think the commission would grant a request as submitted under the past pretense that occurred. (Mr. Floyd requested his written statement be put on record; it is attached hereto on Exhibit B and incorporated herein by this reference.)

Mr. Mike Olson, former commissioner, explained the only reason he had voted to grant the first request for the Sinclair Station was because he understood First Gold was going to rehabilitate the building. Mr. Olson stated it amazes him that First Gold was able to demolish what the Commission let them demolish as well as take down the hillside in a matter of months. He noted it has been years since the first request and, yet, the Sinclair Station has not been touched in any effort to rehabilitate it. Mr. Olson stated in his mind it is almost as if they had decided from the get-go that once the Historic Preservation Commission had approved it, First Gold was just going to let it fall down until the commission tells them they can tear it down. To him, he feels it is totally unfair and negates his vote and his voice.

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Ms. Donna Watson concurred with both Mr. Floyd and Mr. Olson. She stated when she was growing up, a promise was a promise and if First Gold's past statement to rehabilitate the Sinclair Station is not a promise to the Historic Preservation Commission, then she doesn't know what is. Ms. Watson expressed that to allow First Gold to demolish the Sinclair Station is just rewarding their negative behavior; she stated she does not feel it should be allowed.

Matt Pike, resident and former Historic Preservation Commissioner, stated he was here with a heavy heart. He concurred with Mr. Stafford that the Sinclair Station is an eyesore and disgrace; he doesn't feel anyone in the room would argue that fact. However, Mr. Pike noted there is a reason why it is an eye sore, reason it is a disgrace and it has nothing to do with settling ground. He feels that was a tactic for First Gold to buy time until something happened. He noted it has been three (3) years since First Gold made a promise to the commissioners serving at that time, Mr. Mike Olson, Mr. Steve Olson, Ms. Ronda Feteral, current Chairman Willie Steinlicht and himself, to rehabilitate and restore the Sinclair Station in return for certain concessions. Mr. Pike continued stating First Gold was granted those concessions and then let the building deteriorate even further to the point where the Board of Appeals Court actually had to make a finding that First Gold was neglecting the structure and needed to take action which still has not been done. Mr. Pike thanked Mr. Derosier for the vote he made on the Board of Appeals and noted "there is no mistake about it, First Gold has always wanted to take down this building from the get go." Mr. Pike continued that in 2006 and 2007, First Gold went to the point where they looked deeply into the ordinances and state law to simply challenge this City by giving notice that after 180 days First Gold was going to simply demolish the structure. Mr. Pike noted that due to the courage of the City Commission at that time and the hard work of the City Attorney at that time, Jason Campbell, they tried to stop that from happening. He acknowledged that Judge Johnson, who was mentioned at the last couple of hearings, said "that based upon a failure to actually locally designate this building," which was the point that First Gold made in court, "that in fact it could get torn down." Mr. Pike explained after all that, it went to the State Supreme Court which he asked to have entered in as an Exhibit; however both Ms. Williams and Mr. Kuchenbecker noted it was listed as Exhibit A2 in the Commission's Packet.

Mr. Pike quoted "I write specifically to emphasize that the result of this opinion is that Mr. Gustafson is required under the city ordinance to come before the HPC to request a demolition permit." Mr. Pike pointed out that is why First Gold is here today; after three years of continued neglect to the structure First Gold is here now to say "we were told to come here and ask for a demo permit after it has gone through a terrible storm." He emphasized whatever happened to the building, there really is only two solutions. One, Mr. Pike, questioned if the Sinclair would have survived the storm if in fact it had been rehabilitated and stabilized as it had supposed to have been done as committed to in First Gold's promise 3 years ago; he noted there is now way of knowing that. Two, Mr. Pike stated, he would bet it would have been fully insured and, in fact, he thinks there probably has insurance on it now. So Mr. Pike commented either First Gold is not keeping their buildings insured, which may be another issue in itself, or it is insured and a payout has been received on this building since the October storm, but First Gold still wants to demolish it.

He noted Justice Meierhenry stated that "in addition to any review by the city's planning and zoning commission and/or building official, to review and to issue or deny a permit for any undertaking or project, whether publicly or privately funded, which will encroach upon, damage or destroy any historic property included in the National Register of Historic Places or the State Register of Historic Places, which decision to approve or deny shall be based upon the United States Department of the Interior Standards for Historic Preservation Projects codified in 36 CFR 67 as of January 1, 1994." He continued "This section shall not apply to any project or undertaking which the historic preservation commission or its staff determines will not encroach upon, damage or destroy any historic property." He noted Justice Henry emphasized "such determination shall be based upon the guidelines adopted by the Deadwood historic preservation and district commission(s)."

Mr. Pike prayed the Commission actually follow Justice Meierhenry concurring opinion by looking to those guidelines and not coming up with some other conclusion they each feel fits the answer to the problem is posed here. Mr. Pike noted the South Dakota (AG) Attorney General's memorandum opinion "according to court decisions from states with preservation statutes similar to SDCL 1-19A-11.1, to meet this burden a permit applicant must consider all reasonable alternative plans to the proposed project, not just the least expensive option." He continued to quote the AG "since neither 'feasible', 'prudent,' nor 'alternative' have been defined by statute or rule, it is good to start with their meanings in common usage. Webster Dictionary defines 'feasible' broadly as 'capable of being done' and 'prudent' as 'marked by wisdom or judiciousness' or 'circumspection' or 'shrewd in the management of practical affairs.' 'Alternative' means 'a choice' between 'one of two or more incompatible things, courses, or propositions'." Mr. Pike continued to quote the AG "Thus, the definition of 'feasible and prudent' in the context of an SDCL 1-19A-11.1 determination requires sufficient facts to establish that a project alternative is 'capable of being done' as opposed to being merely speculative." Mr. Pike asked the Commission if it was capable of being done that First Gold save this

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structure as promised three years ago. He asked the Commission if it was capable instead of the 'eyesore' Mr. Stafford referenced earlier, could we have had a rehabilitated, stabilized structure which would have withheld the storm, allowing us now to see a perfectly beautiful, restored historic structure and Mr. Pike emphasized "commercial" gas station in its place. Mr. Pike recommended one of two suggestions: hold First Gold to their promise made 3 years ago of rehabilitating the Sinclair Station; or strip it back to its bare bones and rebuild it from scratch. He noted even if it was to be rebuilt, what would remain would be an important historic contributing structure that looks identical, one way of another, to what was meant to be there and what contributes to this National Historic Landmark.

Mr. Derosier responded to Mr. Pike's comment of Mr. Stanford's suggestion to "strip it back to its bare bones and rebuild it from scratch", Mr. Derosier stated he felt having "a replica is by far worse by historic standards and, if anything, feels it cheapens the whole town."

Ms. Williams interrupted to set order to the room due to comments exchanged between both Mr. Derosier and Mr. Pike. She asked the Chair to consider that once the commissioners make their comments that both the Applicant and Staff have a chance to respond.

Mr. Derosier continued to state that it would become a replica and it is an 'eyesore'. He agreed that Mr. Gustafson's intentions for the property were not good, but that being said, he noted we cannot go back and change what has been done. He reiterated that he felt having "a replica is by far worse by historic standards and, if anything, feels it cheapens the whole town" and that is why he feels it needs to go.

Ms. Floyd asked Mr. Kuchenbecker if a replica, a structured stripped down to studs and rebuild, is still considered a contributing structure.

Mr. Kuchenbecker stated under the Secretary of Interior Standards, there are standards for rehabilitation, preservation, restoration and reconstruction. He continued to state "that if it was reconstructed, using the plans and specifications that we have from the original application, that, yes, it would still be considered contributing to the district."

Ms. Floyd asked the Applicant to give a reason as to why the rehabilitation or restoration did not happen over the past three years.

Ms. Morris stated she "was not at liberty to comment on that."

Mr. Namminga expressed his concern that, with the votes that have been made at the past couple meetings, the Commission has "opened the flood gates to future situations that are going to happen" and that this is going to snowball. He commented that years ago he put in for approval to tear down an old worthless shed located in his back yard; the commission at that time told him "absolutely not." However, he stated that today he feels he could put in a request to tear it down and that the commission could not deny; he reiterated that it all comes down to how the commission has voted these past couple of meetings. He noted his shed is a useless building build in the 1920s that used to house Model Ts.

Chairman Steinlicht stated he knew of at least twelve structures or buildings owned by former Historic Commissioners and former City Commissioners that were taken down one by one when they redid the commercial highway. He reiterated that other commissions along with actions from the City have let down the National Historic Landmark District, not just this commission. And that is the reason he votes the way he does and he was born and raised in that district. He stated he has seen things come and go.

Mr. Namminga asked, just because poor decisions were made in the past, why should the commission continue to make more.

Chairman Steinlicht replied that he didn't say Mr. Namminga has to vote that way, but that he was just reiterating what has happened in the past.

Ms. Floyd asked Mr. Kuchenbecker whether the only option to save the building would be to strip it down to the studs or can it be restored in its present condition.

Mr. Kuchenbecker stated the Sinclair Station could be restored from its present state and used 17 Filmore Street as well as 15 Denver as examples. He noted it would take major work, but that, yes, it could be done.

Ms. Floyd inquired about the Demolition by Neglect, a program that has recently become actively seeking to maintain and to continue to look at these problem properties, to find ways to bring them out of their depilating state. She asked if that program is designed to help prevent issues like the Sinclair Station in the future to demolition or just neglect.

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Mr. Kuchenbecker stated that the Demolition by Neglect program has been on the ordinances for some time, but it was about 4 years ago when it was reviewed and strengthened along with the Minimum Maintenance Code. Over the course of the past 8 years, Mr. Kuchenbecker stated the City has strengthened existing ordinances and changed state law.

Mr. Derosier confirmed that the Board of Appeals started only this past year with the first meeting held on October 29, 2013 at which they conducted business.

Mr. Kuchenbecker informed the commission in the initial round of letters sent out regarding the minimum Maintenance targeted six (6) properties and their owners; he noted only one (1) property owner appealed, which was Mr. Gustafson, with the other five (5) owners who have met with the Historic Preservation Office and are currently using the programs available to them to help offset costs for the work needed to bring property up to code. He stated they have been proactive in reviewing and addressing the violations.

Mr. Steinlicht stated Mr. Kuchenbecker and he had taken a drive today pointing out properties that needed work on their fronts; he stated the only way to grab the attention of these property owners who may be in violation of the is to make sure there is a fine system put in place.

Ms. Williams stated there is a fine system in place; it would be a Class Two Misdemeanor which consists of \$500 per day.

Mr. Kuchenbecker stated this property is under violation now and in approximately 30 days if rehabilitation doesn't start, First Gold would be subject to fines.

Mr. Derosier stated he has spoken to Bill Auer whose dad built the Sinclair Station and Mr. Auer gave permission for Mr. Derosier to say he is "tired of looking at it" and "it is too far gone."

Mr. Namminga stated his house "was too far gone" when he bought it and needed to replace the whole foundation, electrical and everything; he continued to state it should have been torn down, that it was built in 1892 and it took him 10 years, but he restored it. Mr. Namminga stated it can be done and there are no excuses as to why it cannot be done.

Ms. Floyd concurred it can be done and the commission was not in a position to ask them to do it, but to tell them to do it.

Mr. Namminga asked Ms. Morris from First Gold how many parking spaces they will obtain when they get rid of the building.

Ms. Morris stated she did not know.

Mr. Namminga stated there may only be three or four parking spaces, but that First Gold was willing to tear down this building with historic significance for that many.

Based on comments by the public, Ms. Williams advised the Chair to consider hearing from both the Staff and the Applicant.

Mr. Kuchenbecker advised the commission the rules and regulations set forth for the Historic Preservation Commission to follow are outlined in his staff report along with the Supreme Court's opinion and State Historic Preservation Office that concur this Demolition request has an adverse effect. He continued to express his opinion that we have the tools in place so, if denied, the commission has the authority to require they restore the property following the Secretary of Interior Standards of rehabilitation to what was previously approved and which would still contribute to the Historic Landmark District, National Register District and the State Register District.

Ms. Morris commented that as a Deadwood resident, she applauds the job the commission does, respects the decisions and understands how hard some of those decisions are to make. She feels the efforts of the Historic Commission have helped to beautify Deadwood. But as a First Gold employee, Ms. Morris stated she thinks the commission is picking on Mr. Gustafson as he is negligent because of the fact that it was in horrible shape before he took ownership of it. She stated if it was of such great historic significance to Deadwood, the City should have done something with it. Ms. Morris stated her office was in the building before along with Georgeann Silvernail and it was full of mold then. She informed the commission that Mr. Gustafson had put in a new floor, new paint and tried to clean it up; however the mold grew back, people got sick and they had to move the offices out of the building. Ms. Morris stated the building was subject to neglect prior to Mr. Gustafson taking ownership and that First Gold should not have to take the entire fault for the deterioration of the Sinclair Station.

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Mr. Namminga asked Ms. Morris why Mr. Gustafson had purchased it.

Ms. Morris stated she would not comment on Mr. Gustafson's behalf. But she reiterated they used it for office space.

Chairman Steinlicht concurred the building was also used by the City as a trolley stop.

Ms. Williams informed the commission Mr. Pike handed her a copy of the State of South Dakota Attorney General's Memorandum Opinion; she confirmed it is part of the exhibits presented to the commission.

Mr. Milos thanked Mr. Floyd for the comments he made earlier. He also thanked Mr. Matt Pike, who was Chair of the Historic Preservation Commission when he was appointed, stating he had learned a lot from Mr. Pike and appreciated his passion. He stated for years the commission hasn't following the letter of the law on every decision and "the flood gates are open", but it is a matter of opinion. Mr. Milos stated his opinion is that he sides with Mr. Derosier and doesn't like the idea of having a minimum maintenance building sitting in a little oasis that doesn't thing it does to anything for the district or the City of Deadwood. Good or bad, he stated that is his opinion.

Based upon all the evidence presented, it was moved by Mr. Derosier and seconded by Ms. Floyd that this project DOES encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places. Aye - All. Motion carried.

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.

Ms. Floyd asked to make additional comments prior to the final vote. She pointed out that in the packets given to the commission, the original 2011 decision was provided that stated the Sinclair could be moved allowing First Gold to demolish portions of the building along with remove parts of the hillside to provide them additional parking spaces; this was all given in exchange for Mr. Gustafson's promise to rehabilitate the Sinclair Station and to maintain it. She stated in the past three years the Historic Preservation Commission was not provided with information from the applicant as to why they did not follow through with what they had promised in return for their prior approved request; however she did note during the 2012 inspection that First Gold had stated there was no finances available to rehabilitate the Sinclair Station. Ms. Floyd found it suspicious that work can be funded to move the Sinclair, demolish parts of as approved and to take down the hillside, but not to follow through on what First Gold had promised to do in return. Ms. Floyd commented that at the previous Historic Preservation Commission meeting a representative from Ketel Thorstenson noted the property that that Shea house and Fountain house sit on is worth approximately \$810,000; as a parking lot which would give them about 4-6 parking spaces; she noted she is not sure if that number is exact. Ms. Floyd noted when First Gold's 2011 app was approved, they gained around 24 more parking spots; she figured that if 4 or 5 was worth \$810,000, then each of those parking spaces is worth about \$150,000. This being said, Ms. Floyd questioned First Gold's comment that there were no finances available to take care of the rehabilitation they had promised to do, especially since they had gained much more from this compromise. She stated the commission gave an excellent compromise where First Gold was allowed to move the structure and remove a hillside, but in return it was a great compromise as Deadwood was not going to lose a historic structure. But First Gold gave nothing back, did not follow through with their side of the agreement and proved to be irresponsible stewards. She did not see any reason to approve their request, except the Sinclair station is an eyesore, but she explained First Gold can be required to fix that; there is no reason it cannot be done. Ms. Floyd stated there is an ordinance and process in place, Demolition by Neglect, which can be used to make them follow through with their promise instead of tearing down a contributing historic structure. She asked the commission how they could vote to just let First Gold have what they probably wanted and what was their intention in the first place. She reiterated this sets "an absolutely disgusting precedent" for Historic Preservation when as a commission they are charged with a mission of protecting and preserving that history. And, yes, she agreed it is an eyesore and something needs to be done, but there is something that can be done; there are options to go through whether it is the restoration process or the rebuilding process. She noted either of these options is better than knocking the Sinclair Station down because they didn't take care of it and follow through with the promise they made to the Historic Preservation Commission 3 years ago. Ms. Floyd expressed her passion for the past and stated there is no reason to continue to make decisions that are continuing to damage Deadwood's Historic Districts in this way.

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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.

Case # 14009 – 130 Charles Street – Rick and Barbara Ensminger

Mr. Kuchenbecker informed the Commission the applicant requests permission to repair existing windows and install new wood storm windows. Also requested is an easily reversible sunshade awning at the rear of the resources for the deck on 130 Charles Street as submitted. (The application is attached hereto on Exhibit C and incorporated herein by this reference.) ***Based upon all the evidence presented, it was moved by Ms. Floyd and seconded by Mr. Milos 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 130 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 Ms. Floyd and seconded by Mr. Johnson to approve the HP Revolving Loan Fund disbursement in the amount of \$150.00, 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.

Retaining Wall Program/Disbursements:

No disbursements 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:

- The New City newsletter will be sent out along with the revised water bill today; it will feature upcoming Public meetings such as Hwy 85 & DOT on April 1st; Rotary Park on April 8th; and Candidates Form on April 3rd.
- Wayfinding meeting was held today;
- Deadwood needs to increase curb appeal as well as to step up and enforce the landscape ordinances to help re-soften Deadwood's environment;
- Thanked Kate Storhaug for her work on the newsletter
- Commission's next meeting will be on April 9, 2014 at 5:00 PM.

Other Business:

- Mr. Milos reminded the commission of the Candidates' Form on April 3 prior to Election on April 8, 2014.
- Mr. Derosier commented on the cemetery transcripts Mr. Mike Runge, Archivist, discussed at the Archives, Archeology and Acquisitions meeting; He expressed how fortunate the City is to have Mr. Runge and was impressed on how knowledgeable and passionate he was;
- Chairman Steinlicht stated there was a good Chamber meeting this past week and that there were 3 applicants in the running for Mr. Milos' position.

Adjournment:

There being no other business, the Historic Preservation Commission Meeting of March 26, 2014 adjourned at 6:18 PM.

ATTEST:

Willie Steinlicht

Chairman, Historic Preservation Commission

Kate Storhaug, Historic Preservation Office/ Recording Secretary