

DEADWOOD HISTORIC PRESERVATION COMMISSION

Wednesday, March 22, 2017 ~ 5:00 p.m.

City Hall, 108 Sherman Street, Deadwood, South Dakota

1. Call meeting to Order
2. Approval of HPC Meeting Regular Meeting Minutes – March 8, 2017
3. Voucher Approval
4. Old or General Business
 - a. 3 Rodenhaus – James Gregory – Retaining Wall issues – No Exhibit
 - b. Deadwood Main Street Initiative – Request for continuation – Louie Lalonde – Exhibit A
 - c. Pilot Program for Ghost Murals – Celebrity Hotel – Exhibit B
 - d. Discussion on advocacy and public relations – Tom Blair - No Exhibit
5. New Matters before the Deadwood Historic District Commission
 - a. COA H17007 634 Main – Toby Keehn – Remodel Project – Exhibit C
6. New Matters before the Deadwood Historic Preservation Commission
 - a. PA H17005 7 Spring – Lee Steier – Replace Door – Exhibit D
 - b. PA H17008 17 Lincoln – Michael Schmidt – Porch Restoration – Exhibit E
 - c. PA H17009 214 McGovern Hill – Joe & Gwendolyn Martin – Window and Siding Replacement – Exhibit F
7. Revolving Loan Fund & HP Programs Update
 - a. HP Program Applications – Exhibit G
 - i. Robert & Mary Sjomeling – 416 Williams – Foundation Program
 - ii. Ronald Russo – 31 Charles – Foundation Program
 - iii. Troy Gorons – 43 Forest – Foundation Program
 - iv. Troy Gorons – 43 Forest – Wood Windows and Doors Program
 - v. Troy Gorons – 43 Forest – Siding Program
 - vi. Joe & Gwen Martin – 214 McGovern Hill – Siding Program
 - vii. Joe & Gwen Martin – 214 McGovern Hill – Wood Windows and Doors Program
 - b. HP Program Extensions – Exhibit H
 - i. Janice Heffron-Fogle – 12 Washington – Siding Program Extension
 - ii. Lee Thompson – 47 Forest – Elderly Resident Program Extension
 - iii. Lee Thompson – 47 Forest – Wood Windows and Doors Program Extension
 - iv. Lee Thompson – 47 Forest – Siding Program Extension
 - v. Greg Vecchi – 19 Centennial - Windows and Doors Program
 - c. Revolving Loan Program
 - d. 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

Executive Session for Legal Matters per South Dakota Codified Law 1-25-1 (3)

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 22, 2017

Present Historic Preservation Commission: Laura Floyd, Thomas Blair, Lyman Toews, Dale Berg, Chuck Williams, Lynn Namminga and Michael Johnson.

Absent:

Present City Commission: Dave Ruth was present.

Present Staff: Kevin Kuchenbecker, Historic Preservation Officer, Crystal Murray, of NeighborWorks-Dakota Home Services, Quentin Riggins, City Attorney, and Jerity Krambeck, Recording Secretary, were present.

All motions passed unanimously unless otherwise stated.

A quorum present, Chair Floyd called the Deadwood Historic Preservation Commission meeting to order Wednesday, March 22, 2017 at 5:00 p.m. in the Commission Room located in the City Hall at 108 Sherman Street in Deadwood, SD.

Approval of March 8, 2017 HPC Minutes:

It was moved by Mr. Blair and seconded by Mr. Toews to approve the HPC minutes of Wednesday, March 8, 2017 as presented. Aye – All. Motion carried.

Voucher Approval:

It was moved by Mr. Johnson and seconded by Mr. Williams to approve the HP Operating Account in the amount of \$126,015.76. Aye – All. Motion carried.

Experience Lab

Mr. Kuchenbecker introduced Joe Veneto, Opportunities Unlimited. Mr. Veneto thanked the Commission for their support for allowing him to work with staff and attractions. Mr. Veneto stated the goal is to help them facilitate the experiences to a much higher level and to invite more visitors and have them stay longer. Mr. Veneto stated the visitors of today are not looking for a vanilla vacation/show and tell and the way we do that is through the experiences of the destination. Mr. Veneto stated ongoing innovation and destination development can be done with attractions and museums and is ultimately what experience the attraction has. Mr. Veneto stated the visitor controls the reputation and your visitors become your brand ambassadors. Mr. Veneto stated Deadwood is the expert, but Opportunities Unlimited is taking that expertise and blending it so the visitor has an experience they are willing to talk about on social media and to their friends and family. Mr. Kuchenbecker stated we are working on developing the stories, staging, and scripting for the four partners previously presented, but this morning there were an additional four partners identified for future experiences.

Old or General Business:

3 Rodenhaus – James Gregory – Retaining Wall Issues

Mr. Gregory stated he had a retaining wall built a few years ago, based on a survey. Mr. Gregory stated it was recently resurveyed by the neighbor and the retaining wall is no longer on his property and he has a dispute about paying for something that is not his. Mr. Kuchenbecker stated we were under the impression based on the earlier survey, the wall was on Mr. Gregory's parcel, the wall was built, and then resurveyed. Mr. Kuchenbecker stated when this was brought about, Mr. Gregory was told not to make payments until this is resolved. Mr. Kuchenbecker stated legal counsel and both surveys are being looking into it. Mr. Kuchenbecker stated Mr. Gregory received a letter from NeighborWorks stated he was going into default. Mr. Kuchenbecker stated the two things that he would like to see come out of this is a motion to halt any payments and interest until this is resolved and then have Mr. Riggins talk about a resolution. Ms. Murray stated it was a mistake and it is a computer-generated letter, which can be disregarded. Mr. Riggins stated he has looked into the state law regarding retaining walls (South Dakota Codified Laws 43-16-2) and it provides that every landowner and adjacent landowner, under those circumstances, is entitled to lateral and subjacent support. Mr. Riggins stated that in layman terms is if you are on a downhill side of a development, because you cut into the bank in order to build there, you owe lateral support to the property above you in order to insure the property does not slide down hill and cause damage. Mr. Riggins stated the case law that interprets it, it is clear that support does exist and there would be a requirement that the retaining wall is

paid for by the person downhill. Mr. Riggins stated with that being said, even though that is what the law says, in this case there is a unique set of circumstances because of the discrepancy in the surveys. Mr. Riggins stated he proposes to reach out to the uphill neighbor and try to resolve this issue. Mr. Riggins stated because of the lateral support duty and the fact that the wall isn't in the right place because of the survey issues, there is likely an implied easement there already, and basically saying that wall and its responsibility goes to the downhill landowner even though it is in the wrong place. Mr. Riggins stated because he believes the easement does exist and he would bear the responsibility of fixing the wall, his proposal would be to try to work out a situation where he would deed over the small piece of property where the wall sits to the downhill owner. Mr. Riggins stated that would be a reasonable solution and he suggests the City pay for any costs of any survey to correct that issue and reach out to the landowner to resolve. Mr. Toews asked Mr. Riggins if it was his understanding we acted on survey that was previously done and the survey was wrong. Mr. Riggins concurred. Mr. Toews asked if the surveyors have any liability under their errors and omissions clause with their insurance to compensate for their errors. Mr. Riggins stated he has both surveys on file and he will look at them and see if there are any liability issues there. Mr. Riggins stated he is unsure what led to the incorrect original survey, but it sounds like at one point everyone assumed that is what the boundaries were and that from the original stake there was an error that went uncorrected for quite some time. Mr. Riggins stated it was his understanding that there are lots that are actually in the middle of the street and it is more than a single issue, yet a widespread problem. Mr. Toews stated he does not want to see Historic Preservation money spent on this, when we trust the survey companies we hire to do their job and they have insurance to cover it. Mr. Riggins stated he would look into that and if we do incur any costs, they are going to be minimal and if we reached out to the original survey, they would probably not incur further costs to us to resurvey. Mr. Toews asked about the landowner. Mr. Riggins stated he would reach out to him and see if this is a reasonable resolution, but under the circumstances, there is already an implied easement and he loses nothing from this resolution, as he has no right to the land. Mr. Blair asked the cost of the retaining wall. Mr. Gregory stated approximately \$180,000. ***It was moved by Mr. Blair and seconded by Mr. Namminga to halt all required payments and interest on the retaining wall until this is resolved. Roll Call: Aye – Mr. Blair, Mr. Toews, Mr. Berg, Mr. Namminga, Mr. Johnson. Nay – Mr. Williams. Motion carried.***

Mr. Williams asked if we require the businesses that do the surveys in the City to carry the correct insurance. Mr. Kuchenbecker stated without knowing the full history of the parcel, at what point did the 10 feet off Stewart Street change. Mr. Kuchenbecker stated unfortunately in Deadwood we have a lot of conflicting information regarding surveys over the last 140 years. Mr. Kuchenbecker stated the two surveyors in Deadwood have both surveyed the parcel and that is where the dispute is regarding the parcel. Mr. Gregory concurred. Mr. Williams again asked if the surveyors had omissions and errors. Mr. Kuchenbecker stated he could not answer that question. Mr. Williams asked if we should require it and stated we should not have our neck out there on this. Chair Floyd asked to find out if they have insurance and if we can utilize it. Mr. Williams stated the surveyors are the ones who are responsible. Chair Floyd asked if there was additional action needed this evening. Mr. Riggins said he will put together his finding on the original surveys, the insurance and course of action and will present to Historic Preservation Commission.

Deadwood Main Street Initiative – Request for continuation – Louie Lalonde – Exhibit A

Ms. Lalonde asked for a continuation for the financial pledge from Deadwood Historic Preservation. Ms. Lalonde stated they are close to the completion of their business plan and believes that it is important information for a decision to be made. Ms. Lalonde requested continuation until April 12, 2017. Ms. Lalonde stated a Community Forum will be held on April 6, 2017 to get additional information on the Visitor Center, Comprehensive Plan, Main Street Initiative, and moving forward on the development of the two plazas. ***It was moved by Mr. Blair and seconded by Mr. Toews to continue the Deadwood Main Street Initiative conversation to April 12, 2017. Aye – All. Motion carried.***

Pilot Program for Ghost Murals – Celebrity Hotel – Exhibit B

Mr. Kuchenbecker stated the Deadwood Historic Preservation Commission directed staff to reach out to the Celebrity Hotel to do a pilot program of the Ghost Mural program and presented a letter dated December 13, 2016. Mr. Kuchenbecker presented a quote from Flat Earth Signs and Celebrity Hotel would like to proceed with this and extend a covenant or easement on the mural as well. ***It was moved by Mr. Toews and seconded by Mr. Johnson to recommend to the City Commission to approve the Pilot Program for Ghost Murals at the Celebrity Hotel. Aye – All. Motion carried.***

Discussion on advocacy and public relations – Tom Blair - No Exhibit

Mr. Blair stated years ago Deadwood did an advocacy program across the State of South Dakota. Mr. Blair stated as we look at some of the declines in occupancy and gaming revenue, we need to go look at what we are doing and advocacy is one of these things. Mr. Blair stated this body needs to take some of this back and start going to these events. Mr. Blair stated gaming is being considered in several locations in the Dakotas and Montana and we

need to be able to talk to the people of South Dakota and tell them about who we are and what we have done. Mr. Williams asked who went to all these places representing the City. Mr. Blair stated several people who worked at the Chamber at the time, Mr. and Mrs. Blair, and others attended several a year. Mr. Williams asked how much we give to South Dakota Tourism. Mr. Kuchenbecker stated \$3.5-3.7 million and another \$955,000 in promotional taxes from Lawrence County, so we represent about 34% of their total budget between gaming and promotional tax. Mr. Blair stated nobody talks about Deadwood better than people that live here. Mr. Toews asked if the Promotion Committee could be given the charge and if they need support, they can request it. Mr. Blair stated the reason he is bringing this up now is because some of these places fill up very quickly. Mr. Kuchenbecker stated there is a \$10,000 line item for public relations/advocacy. Mr. Kuchenbecker stated this could be an activity under promotions to come up with a plan. Mr. Kuchenbecker stated City staff is stretched thin and we do not have the staff to keep up with everything else we have. Mr. Kuchenbecker stated he agrees this is important, but if we are going to do this in the future, we need to develop a budget, a timeline and plan. Ms. Lalonde stated the Chamber of Commerce arranged it in years past. Mr. Kuchenbecker stated the Chamber is stretched just as much as City staff. Mr. Toews stated he would like to reduce the amount of activities our staff does and we are pulling them and we need to develop people in this town.

New Matters before the Deadwood Historic District Commission

COA H17007 634 Main – Toby Keehn – Remodel Project – Exhibit C

Mr. Kuchenbecker stated the applicant has submitted an application for Certificate of Appropriateness for work at 634 Main Street, a contributing structure located in the Original Town Planning Unit in the City of Deadwood, circa 1930. The applicant is requesting permission to remove the glass overhead door located at the rear of the building (south end) and modify opening to match the current entry located on the rear of the building (north end). The applicant is also requesting to build a 14 1/2' x 18 1/2' addition to provide interior space for freezer and cooler, along with dry storage per submitted plans. The rear door proposed for change was part of an early gaming alteration and not part of the original building. Furthermore, the addition planned to the front of the building is an addition to an addition again from the early gaming alteration to the original configuration. The proposed addition is still compatible to the resource and does not have an adverse effect to the original resource. As such, the proposed work and changes do not encroach upon, damage, or destroy a historic resource or have an adverse effect on the character of the building or the historic character of the State and National Register Historic Districts or the Deadwood National Historic Landmark District. Mr. Blair asked if the front of the addition would go to the doorway. Mr. Keehn stated it would only go to the curve of the building.

It was moved by Mr. Toews and seconded by Mr. Williams based upon the guidance found in DCO 17.68.050, the exterior alteration proposed is congruous with the historical, architectural, archaeological or cultural aspects of the district and move to grant a Certification of Appropriateness. Aye – All. Motion carried.

New Matters before the Deadwood Historic Preservation Commission

PA H17005 7 Spring – Lee Steier – Replace Door – Exhibit D

Mr. Kuchenbecker stated the applicant has submitted an application for Project Approval for work at 7 Spring Road, a non-contributing structure located in the Large's Gulch Planning Unit, circa 1988. The applicant is requesting permission to replace the existing front door, as submitted. The proposed work and changes do not encroach upon, damage or destroy a historic resource or have an adverse effect on the character of the building or the historic character of the State and National Register Historic Districts or the Deadwood National Historic Landmark District. ***It was moved by Mr. Toews and seconded by Mr. Namminga based upon all the evidence presented, 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 move to grant a project approval. Aye – All. Motion carried.***

PA H17008 17 Lincoln – Michael Schmidt – Porch Restoration – Exhibit E

Mr. Kuchenbecker stated the applicant has submitted an application for Project Approval for work at 17 Lincoln Avenue, a contributing structure located in Ingleside Planning Unit, circa 1880. The applicant is requesting permission to restore and repair the back porch to the house as submitted. The porch is deteriorating and considered a life-safety issue. The plans will rehabilitate the porch back to current configuration. The proposed work and changes do not encroach upon, damage or destroy a historic resource or have an adverse effect on the character of the building or the historic character of the State and National Register Historic Districts or the Deadwood National Historic Landmark District. ***It was moved by Mr. Toews and seconded by Mr. Johnson based upon all the evidence presented, 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 move to grant a project approval. Aye – All. Motion carried.***

PA H17009 214 McGovern Hill – Joe & Gwendolyn Martin – Window and Siding Replacement – Exhibit F

Mr. Kuchenbecker stated the applicant has submitted an application for Project Approval for work at 214 McGovern Hill Road, a contributing structure located in the McGovern Hill Planning Unit, circa 1940. The applicant is requesting permission to repair and replace windows, as submitted. The applicant has also requested to be entered into the siding program to repair the original wood fascia and soffit of the home. In the 2000s, the Deadwood Historic Preservation Commission allowed the installation of a half-round log siding on the resource. It is staff's opinion this has taken some of the historic integrity of the resource away. The applicant is looking to repair and replace some of the windows and repair the fascia and soffit. Staff has met with the applicant and will continue to work with the owner and contractor on this project. The proposed work and changes do not encroach upon, damage or destroy a historic resource or have an adverse effect on the character of the building or the historic character of the State and National Register Historic Districts or the Deadwood National Historic Landmark District.

It was moved by Mr. Blair and seconded by Mr. Toews based upon all the evidence presented, 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 move to grant a project approval. Aye – All. Motion carried.

Revolving Loan Fund and Historic Preservation Programs:

HP Program Applications – Exhibit G

Robert & Mary Sjomeling – 416 Williams – Foundation Program

Ronald Russo – 31 Charles – Foundation Program

Troy Gorons – 43 Forest – Foundation Program

Troy Gorons – 43 Forest – Wood Windows and Doors Program

Troy Gorons – 43 Forest – Siding Program

Joe & Gwen Martin – 214 McGovern Hill – Siding Program

Joe & Gwen Martin – 214 McGovern Hill – Wood Windows and Doors Program

It was moved by Mr. Blair and seconded by Mr. Berg to approve the HP Program Applications, as presented. Aye – All. Motion carried.

HP Program Extensions – Exhibit H

Janice Heffron-Fogle – 12 Washington – Siding Program Extension

Lee Thompson – 47 Forest – Elderly Resident Program Extension

Lee Thompson – 47 Forest – Wood Windows and Doors Program Extension

Lee Thompson – 47 Forest – Siding Program Extension

Greg Vecchi – 19 Centennial – Windows and Doors Program

It was moved by Mr. Toews and seconded by Mr. Johnson to approve the program extensions as presented. Aye – All. Motion carried.

Revolving Loan Program/Disbursements

It was moved by Mr. Blair and seconded by Mr. Toews to approve HP Grant Fund disbursements in the amount of \$2,447.07, based on information as presented by Ms. Murray, of NeighborWorks-Dakota Home Services. Mr. Berg abstained. Aye - All. Motion carried.

It was moved by Mr. Johnson and seconded by Mr. Blair to approve HP Revolving Loan Fund disbursements in the amount of \$4773.70, based on information as presented by Ms. Murray, of NeighborWorks-Dakota Home Services. Mr. Berg abstained. Aye - All. Motion carried.

The delinquency report was presented by Ms. Murray.

Revolving Loan Fund/Retaining Wall Program Update:

Retaining Wall Applications

No applications were addressed at this meeting.

Items from Citizens not on Agenda

Lee Thompson, 47 Forest, asked if any Commissioners have been to 43 Forest and stated the owners have put too much money into the house. Mr. Thompson asked if it would be possible to grant them the vacant home grant, even though they did not apply for it in the required time, as they did not know what they were going to do with it and they are having trouble getting contractors up. The owners are going to spend around \$190,000-200,000. Mr. Thompson asked the Commission to look at the structure. Mr. Kuchenbecker stated the house has to be vacant for

two years, which this house has been vacant for longer, and the application has to be in within three months of purchase. Mr. Kuchenbecker stated it was denied at staff level, due to not meeting the requirements. Mr. Thompson said they have taken a house that was gone and brought it back to life and it would be some good money spent to waive the three months. Chair Floyd stated it would be revisited at Loan Committee. Mr. Thompson stated when you are up looking at 43 Forest to look at the retaining wall at 47 Forest and asked the Commission what is done when a retaining wall did not work. Chair Floyd stated we could get that question on the table as well.

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

Mr. Kuchenbecker reported on the following items:

- We are working with Split Rock on a daily basis and we are on schedule for the Welcome Center;
- Staff attended the Lead/Deadwood Middle School career fair today;
- Mike is working with the Experience Lab this week.

Committee Reports:

- Mr. Toews stated he is on two committees, Economic Restructuring Committee and one of the things they are looking at is doing an RFQ for architectural services for upper floor conceptual designs and we are looking to have Historic Preservation money to pay for that to give the property owner something to see before they get too far down the road. Mr. Toews stated they are also planning a workshop for the owners to talk about the façade program and any other initiatives we have and other design issues. Mr. Toews stated on the Design Committee, they talked about the Celebrity Hotel mural and the banners at Days of '76 and adding different banners for different occasions based off the Days of '76. Mr. Toews stated they are reaching out to the City for help with that.
- Mr. Blair stated it was a good meeting today with the Main Street Initiative.
- Mr. Berg stated he is excited about second floor development.

Mr. Kuchenbecker stated the Deadwood Dine Out is coming up on March 26-30.
Wednesday March 29, 2017 is the Deadwood Trust Information Night.

Adjournment:

The Historic Preservation Commission Meeting adjourned at 6:11 p.m.

ATTEST:

Chairman, Historic Preservation Commission
Jerity Krambeck, Historic Preservation Office/Recording Secretary