

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF DECEMBER 5, 2018

BOARD MEMBERS IN ATTENDANCE: Douglas Stephens, Lola Beatlebrox,
Puggy Holmgren, John Hutchings, Jack Hodgkins, Randy Scott

EX OFFICIO: Bruce Erickson, Anya Grahn, Mark Harrington, Liz Jackson

ROLL CALL

Chair Doug Stephens called the meeting to order at 5:00 p.m. and noted that all Board Members were present except Jordan Brody, who was excused.

ADOPTION OF MINUTES

November 7, 2018

MOTION: Board Member Holmgren moved to APPROVE the minutes of November 7, 2018 as written. Board Member Hodgkins seconded the motion.

VOTE: The motion passed. Chair Stephens abstained since she was absent from the November 7, 2018 meeting.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD COMMUNICATIONS AND DISCLOSURES

Planner Anya Grahn commented on the C-PACE program. They have been passing out flyers to the Building and Planning Department. She wanted the HPB to be aware that there was another financing option available to people in the Historic District.

Planner Grahn reported that the RFP for the art piece for the Historic Preservation Award was available on line. She asked the Board members to help promote it.

Planner Grahn noted that the Staff report included dates for the upcoming 2019 HPB meetings to help everyone plan ahead.

Planner Grahn reported that the Planning Department has been working with the Star Hotel to pull a demolition permit. There is a Notice and Order on the building and every winter they are concerned that the amount of snow on the roof will cause it to collapse. Even though the HDDR application has not yet been

approved, they will allow the owner to move forward with a demo. A financial guarantee is in place and demolition will resolve the Notice and Order.

WORK SESSION – Historic District Grant Program

Director Erickson commented on the need to get the Grant Program in place quickly because funds cannot be granted until the City Council accepts the document and allocates money in the budget specifically for this program.

Planner Grahn stated that the goal is to finalize the Grant Program at the January 16th meeting, and take it to the City Council before the end of January or early February at the latest.

Planner Grahn remarked that the first section was the Mission Statement. She had redlined the Statement to show the amendments that the Board previously recommended.

Board Member Hutchings recalled that they had talked about defining or clarifying socially equitable. Planner Grahn replied that the Board had talked about it, and the City was still working on defining it. Director Erickson was trying to look at it from a preservation perspective without creating a disadvantage for historic property owners due to the additional costs of restoration work.

Board Member Hutchings stated that he was against the preservation easement. However, if they intend to have a preservation easement as part of the program, it should be included in the Mission Statement. He understood that the purpose of the preservation easement is to insure that the property is preserved in perpetuity if the Guidelines go away. Mr. Hutchings thought they needed to make it clear that the program is about preserving historic structures, but it is also about preserving historic structures forever.

Planner Grahn thought it could be referenced. She encouraged the Board to make their comments for or against the preservation easement when they review the easement section. If they reach an agreement as a Board, the Staff will take their recommendation to the City Council.

Director Erickson explained that the intent is not based as much on whether the Guidelines go away or the Legislature makes changes. It is primarily based on the expenditure of public money and the need to show value for the money spent. He stated that they do not have an easement on the structures being done on the Park City Mountain Resort in conjunction with the Friends of the Ski Mining History. They have a license on those structure. Director Erickson

believed there was a mechanism to show public value if there were concerns about the rigor of the easement.

Chair Stephens thought the Mission Statement should be simplified. In reading the language, he deleted all the wording down to where it said “historic buildings” in red that was scratched out. Chair Stephens pointed to the language that he thought were Park City’s values and where they really talk about the Grant Program. He recommended deleting all the language prior to that statement to avoid being caught up in the question of whether it is a socially equitable grant. It simply gives the HPB the ability to use the money however they deem fit. It could still be part of the consideration, but it should not be part of the Mission Statement. Chair Stephens had also scratched out “emergency repair”. He believed it would be intuitive if an emergency repair was necessary to preserve a building.

Board Member Beatlebrox concurred. The rest of the Board concurred as well.

Planner Grahn moved to the next section, Eligible Improvements. She reviewed an exhibit listing eligible improvements for emergency repair work and for competitive grants. At the last meeting the Board talked about the actual meaning and whether they were useful terms. She believed that keeping the terms broad was helpful because each historic building will be unique in its own issues.

Chair Stephens asked Planner Grahn to address the Abatement of Hazardous Materials as being an eligible improvement. He wanted to know under what circumstances it would apply. If someone recently purchases a historic structure they would know that hazardous material abatement would be necessary. He questioned whether that would be an eligible improvement.

Planner Grahn explained that it was more for exterior building materials. There have been a few cases where the abatement was removal of asbestos siding and restoring the original wood siding. A cost was incurred because they had to abate the asbestos. Chair Stephens asked if that was the case of a recent purchase. Planner Grahn replied that it was an elderly homeowner who had lived in the house for a long time. Chair Stephens thought that scenario was appropriate and eligible. If he were purchasing a historic home, he would be aware that an abatement process needs to take place on the asbestos siding. The market price would already reflect that and receiving a grant would be double-dipping.

Planner Grahn suggested removing the abatement language and call it siding repair work. Chair Stephens favored that suggestion because it would allow the HPB to make adjustments based on the circumstances.

Board Member Hutchings thought the market price reflected all of those things when a structure is purchased. Board Member Scott pointed out that the Board would have a discussion to determine whether the item could be approved as eligible. Board Member Hutchings understood that the only abatement approved would relate to the exterior. Chair Stephens agreed that the Board would have some flexibility depending on the circumstances.

Chair Stephens referred to the ineligible improvements. He recalled that under the old Grant Program, updating mechanical and HVAC was an eligible improvement. Planner Grahn stated that since her time in the Planning Department it has been an ineligible improvement. She believed it was because the exterior of the building can be maintained without the HVAC. It could be mothballed to keep the exterior in good condition. Planner Grahn understood the argument that keeping the building up to Code helps to keep it livable and maintained. Chair Stephens was comfortable leaving it as ineligible. Board Member Hodgkins believed there were other options for funds to help the homeowner. Chair Stephens agreed that credits are available for efficiency upgrades.

Board Member Holmgren asked if they were keeping the emergency grant. Planner Grahn stated that they would like to. Ms. Holmgren asked about things such as roofs. Planner Grahn noted that roofing was not included and offered to add it as an eligible improvement. Ms. Holmgren thought it should be included. The Board concurred.

The Board had no additional comments or questions regarding the emergency repair list.

Planner Grahn reviewed the Competitive Grant and Improvement List. She would add roofing to the eligible improvements on this list.

Chair Stephens noted that his earlier comment regarding the Abatement of Hazardous Materials applied to this section as well.

Director Erickson was not sure he was in complete agreement with Planner Grahn regarding hazardous materials. He believed some of the houses needed interior remediation; particularly mice or rats or lead materials. Director Erickson thought the issue was broader than asbestos siding. He assumed they would see a lot of asbestos in the commercial structures that will need to be abated.

Chair Stephens explained that his point was to find a way to allow flexibility based on the circumstance of each property. He appreciated the suggestion to include it under siding rather than listing it specifically as hazardous material abatement. Planner Grahn stated that in the future as they talk about a score

card, many of the extenuating circumstances could be weighed differently through a score card.

Board Member Hodgkins was pleased that stabilization and preservation of the mine structures was included in the list; especially for emergencies.

Board Member Hutchings asked if they should make it clear that this was not an exhaustive list on either the emergency or the competitive grant list. Planner Grahn offered to make that clarification.

Board Member Holmgren stated that in the past they have not allowed grant money for exterior painting. Planner Grahn thought "interior paint" on the ineligible list should say "interior and exterior paint".

Board Member Scott noticed that roof structure was not listed under the Competitive Grants. Planner Grahn suggested that they could add roofing or roofs, and weigh whether it was replacing asphalt shingles or completely restructuring a roof.

Board Member Hodgkins understood that it did not matter if the material needing repair was historic or non-historic. If the building is historic, the grant is eligible regardless of whether an eligible material is historic. Planner Grahn replied that as long as it contributes to the integrity of the building or prolonging the life of the building, it could be covered by a grant.

Planner Grahn noted that at the last meeting they also talked about the need for a definition for emergency repair work and found that the LMC actually has a definition. She asked if the Board felt the definition met their goal, or whether they wanted to change the definition. The Board was comfortable with the LMC definition.

Planner Grahn stated that there were no definitions for Routine Maintenance and Deferred Maintenance. She would look at whether it was appropriate to add those definitions to the LMC or whether they could just be defined on a grant application. Planner Grahn had included definitions in the Staff report that were taken from Grant Programs in other states.

Under Routine Maintenance, Board Member Hutchings questioned whether it was necessary to have "simple and small scale" in the wording. Planner Grahn offered to cross it out. Chair Stephens agreed. He had also crossed out "simple and small scale activities made for the regular upkeep of properties" from the definition.

Chair Stephens stated that under Deferred Maintenance, he had crossed out "because of lack of funds or inaction". He did not think that wording was

necessary. Board Member Hutching stated that he had crossed out the same wording.

Planner Grahn stated that the Board had talked about the bi-annual application deadlines at the last meeting, at which time everyone agreed that the competitive grant cycle was fitting.

Planner Grahn noted that the Board still needed to talk about funding. She recalled a number of questions at the last meeting about where the money came from and how it all worked. She explained that there are two RDAs; the Lower Park Avenue Redevelopment Agency and the Main Street RDA. There is a small gap of a few blocks. If a structure that falls outside of the RDAs or outside of the Historic Zoning Districts, the owner can apply to the General Fund. She indicated the amount allocated to the Grant Program on an annual basis.

Chair Stephens clarified that the money available for an application is defined by the RDA where the site is located. He recalled mention of the 2015 budget. Planner Grahn stated that the numbers have been fairly consistent since her time with the Planning Department. The biggest change was a change to the government accounting laws in terms of how the funds were allocated and coordinated. Otherwise, the amounts have remained consistent. Chair Stephens pointed out that funds have not been awarded for the last few years. He asked if the money has been accumulating or whether it was a line item. Planner Grahn replied that it was a use it or lose it line item.

Chair Stephens asked if that would always be the case. Director Erickson stated that nothing is always. However, they would have to restructure the way the RDA works or if the City Council decides to do something different when the RDA is renewed. Chair Stephens clarified that it was part of the RDA regulations but not the General Fund regulation. Director Erickson answered yes.

Planner Grahn stated that the allowance to cover projects will be low and when they do the scorecards the Board will have to be selective in terms of awarding the grant funds.

Board Member Scott read from page 29 of the Staff report, "The Staff found the priority was to incentivize repairs for historic houses and commercial buildings first and mine structures second, as the majority of the Mine Sites are located outside of the Main Street and Lower Park Avenue RDAs". He asked how that would work if they receive applications for RDAs and an application for stabilization of a mine structure. Planner Grahn replied that they would not be comparing a Main Street project to the mine structure project. However, if there were several projects within the General Fund, under which the mine structures qualify, they would have to weigh it out. Planner Grahn clarified that the Staff opinion was that mine sites are important but they are not habitable buildings.

They need to incentivize the commercial and residential structures, but they also wanted to make sure there was an avenue to provide for the mine structures.

Board Member Scott noted that there was \$50,000 in the Lower Park RDA. If they award \$30,000 for projects and \$20,000 is left over, can the money be used for the mine sites if it is a use or lose it basis. He was told that the mine sites could only be funded from the General Fund. Planner Grahn remarked that there were two grant cycles per year. In the Lower Park Avenue RDA, if one project in the Spring that was awarded \$30,000; they would still have \$20,000 to use in the Fall. If the entire \$50,000 is used at the beginning of the year, there would be no funding left to offer in that zone for the remainder of the year.

Board Member Hodgkins clarified that if no applications were submitted in the Fall, any remaining money would be lost. Planner Grahn replied that he was correct. Board Member Scott asked if there were no applications submitted, whether the Board could call a special meeting and task someone to find historic projects to fund. Planner Grahn stated that they have discussed this in the past. For example, if they do not have Main Street applicants in the Spring, they could do a better job of promoting the Grant Program to the HPCA or other organizations in the Fall. Chair Stephens pointed out that the Grant document talks about outreach and the need to reintroduce this Program to the community.

Planner Grahn pointed out that if they have several applications in the same RDA, the HPB would not have to award the full amount for each project in order to spread the funds between projects. Board Member Scott asked if they pass on one project to fund another project in the Spring, whether that project would roll over to the Fall for consideration. Planner Grahn stated that it would depend on whether the grant applicant was willing to wait until the Fall review.

Board Member Beatlebrox stated that it was not a subjective method because it was based on criteria. If a project meets the criteria, she was unsure how it could be postponed until the Fall. Board Member Scott noted that each item would have a different score and the Board would have to decide which ones make sense to fund. Board Member Beatlebrox asked if there was a threshold of a certain number of points to meet. Planner Grahn stated that other communities use the competitive score card method, and it basically comes down to how much “bang for the buck”. She used examples to show how using the score card helps the Board make choices and determine how much to award for each item.

Board Member Holmgren asked if there was a sunset clause when someone is approved for a grant if the work is not done within a specific timeframe. Planner Grahn recalled that in the past the timeframe has been consistent with the Financial Guarantee, which is two years to complete the project. Communities who do not take on as many expansive projects as Park City have a timeframe is

six months to a year. Chair Stephens thought Board Member Holmgren raised a good point. He suggested that timing could be part of the scoring process.

Planner Grahn moved to the Easements. She believed the Staff report provided a good overview of the preservation easements, as well as examples. Planner Grahn stated that the Staff has always supported the Preservation Easement because they are concerned about the actions of the State Legislature and they want to make sure they can protect historic buildings. They also want to make sure they are protecting the public investment in private property.

Chair Stephens agreed with the earlier comment by Director Erickson that they need to show something of value for the public money being spent. He questioned whether there was a threshold for when a preservation easement makes more sense. Director Erickson replied that there were several ways to approach his question. If they give money to a Landmark structure they should do a preservation easement. For a Significant structure, which is related to the District and not the structure itself, they might find criteria to apply a lesser standard. Someone applying for a competitive grant may want to offer the protection of a preservation easements. Someone applying for an emergency grant might not need that much rigor in the application. Director Erickson stated that if there is agreement among the Board, the Staff will deliver that language to the City Council. Director Erickson used mine structures where the people who own the lease do not necessarily own the ground underneath or do not always take control of the structure as an example of when a license agreement is more appropriate than a preservation easement. On Significant structures, in a competitive situation they would review the request and the dollar volume and establish appropriate criteria. Regarding emergency repairs, unless something needs to be done immediately, the HPB could recommend to the City Council the need for a preservation license for public money without the rigor of an easement.

Planner Grahn agreed. She thought the dollar amount would also make a difference. Chair Stephens asked if there was concern about granting funds on properties that might be flipped. Planner Grahn understood from previous work sessions that the bigger concern was protecting the historic asset.

Board Member Hutchings had no doubt that a preservation easement is the instrument that puts the City in the best position. If the goal is to encourage people to use the Grant Program, he thought the preservation easement would act as a strong deterrent for people to use the program. Mr. Hutchings thought the commitment from the homeowner should be equal to what they are getting from the Program. He believed the 5-year Trust Deed was more reasonable for the amount of money the City offers. Mr. Hutchings stated that if they move forward with the preservation easement, he thought the current document was

too much of an encumbrance. He asked if there was a way to scale it down to essentially preserve the piece of the project that the City was paying for.

Chair Stephens understood the concern because it is important to make sure the program is used in the future. He agreed that there would be a perceived hindrance of having to place an easement on the property. Board Member Hutchings thought the negative aspect would only be if someone wanted to sell their property. Chair Stephens thought the question is how the public would perceive that to be a negative. Mr. Hutchings replied that it would be from the perspective of the buyer. If someone is looking at three different properties and one has a preservation easement, he believed the restrictions would be a deterrent for wanting to purchase that property. Mr. Hutchings thought an easement would decrease the value of the property, and it might also encourage a buyer to purchase the house without an easement. Mr. Hutchings believed that the City benefit for awarding money from the Grant Program is that the project gets done and the historic structure is preserved.

City Attorney Mark Harrington stated that the City used Preservation Easements prior to the 5-year Trust Deed. At its earliest point it was used for a different accounting purpose in exchange for public money. However, it was seen as a redundant protection to memorialize the expectation that the property could not be demolished; particularly if the owner received City funding. Mr. Harrington noted that at that time they had a more challengeable process because they did not have the Historic Sites Inventory and only had the process by which any property could go through a determination of significance. It was a more difficult regulatory process. The Staff had to track the preservation easements as they dealt with applications on properties that had easements and it became an administrative burden. Once the preservation community became aware that easements were no longer being required, they were reminded that the other option was to require preservation easements. That was the reason why it was back in the forefront.

City Attorney Harrington noted that it was a policy decision and he thought the Board was having the appropriate discussion. Mr. Harrington stated that most of the buyers in this market are fairly sophisticated and know they are purchasing a home that cannot be demolished. The City could simplify the form and make it mirror the CAD process more closely so it is clear that it is meant to be a redundancy and not additional restrictions. Mr. Harrington remarked that there was no right or wrong answer and it was simply a question of balancing incentivizing with protecting the public investment.

Chair Stephens asked if they chose to do the easement and found that it was keeping the program from being successful, whether it would be difficult to change the position. Director Erickson stated that the easement would be a legislative act. He suggested that the Staff could come back to the HPB in a year

see if there was an impediment in the system preventing people from using the Grant Program. Chair Stephens stated that after they get the program running and go through the first round of grants, they should look at it again so see if they need to tweak it for the next round; especially if they lose money because the program is not successful.

Board Member Hutchings asked if the City has to get something in return for giving people money, such as a trust deed or a lease. City Attorney Harrington asked if Planner Grahn had clarified whether it was applicable to both funds or just the CIP. Planner Grahn replied that in speaking with Finance it sounded like it was applicable to everything; however, she could delve into it in more detail. Mr. Hutchings clarified that he was only asking if there were options. Mr. Harrington thought they could get more creative in that interest. He did not believe it was the black or white answer that was initially communicated. Chair Stephens stated that whatever they decide, it should be consistent among all the grant applicants. General Fund applicants should not be treated differently than the RDA applicants. Mr. Harrington pointed out that unless the laws are different because of the money management, they may have the option to treat them differently. Chair Stephens personally preferred to keep it consistent. Planner Grahn offered to look into it further.

Board Member Hodgkins was in favor of the easement. He thought it was important to make sure that preservation is preserved. As Director Erickson alluded to earlier, nothing is permanent. A number of laws are in place that supposedly protect these Historic District zones, but in the future preservation may not be a top priority. Mr. Hodgkins stated that preserving this in perpetuity with the tax dollars being spent was an important protection. He felt that the easement, as currently written, was only an agreement between the City and the current owner. He was more comfortable involving a third party that would truly protect the interest of the easement and preservation in perpetuity. Mr. Hodgkins understood that the City wants to preserve preservation, but that is not their true mission. He has sat on other Boards that accept historic preservation easements, and there is a valuation that comes with them. Given the current zoning and laws around the historic homes in Park City, he did not believe the value of the easement was money. If the value is more than the grant, it provides the homeowner a tax incentive to use if they wanted to officially value the easement they were putting on their property.

Board Member Hodgkins noted that the easement as written only talks about the façade. He thought the historic building itself was important and per the LMC, they should be trying to preserve the historic building. He encouraged them to be more concerned with preservation of the building itself. Mr. Hodgkins commented on the number of homeowners who come before the HPB trying to fight their designation. Having easements on the properties would prevent that from occurring. As a member of the Historic Preservation Board, it was his duty

to protect those designations and he would feel more comfortable with an easement for that case to make it clear that it is a historic property and there is an easement that protects the historic building.

City Attorney Harrington stated that the easement as drafted both previously and now only addressed the façade so future additions and remodels could be done through the permit process without having to ask the City Council for permission as an owner of the easement. They could not modify the façade but there was flexibility to define the protected façade through exhibits. He emphasized that it was a policy decision and the HPB could make that recommendation.

Regarding a third party, Mr. Harrington stated that the City has a long history with that debate in the community. It is a policy decision; however, the question is whether the property owner will have the additional burden of asking two parties for permission before they can do anything. They already see that complication in open space negotiations. There is also a financial aspect because the third party wants endowment long term costs to be part of the third party monitoring. He asked the Board to be careful if they choose that direction because it can create its own problem.

Chair Stephens stated that when applicants come before the HPB, the application often deals with the historic building and how it is impacted with additions. He knows the Staff spends a lot of time reviewing the additions and their impacts. In terms of process, if a new property owner comes in and they do an easement on the entire historic building, he asked if the owner would need to go through the City Council. He favored an easement on the entire building, but at the same time he did not want to put an extra burden on the property owner. Mr. Harrington stated that they could put an easement on the building, but still have a permitted use defined as the process, which is any permitted approval through the Planning Department Design Guideline approval process. Chair Stephens clarified that there would be a way through the Planning review process that would not require approval by the City Council on the easement. Mr. Harrington replied that it would depend on how the easement language was drafted. As currently written he believed it contemplated City Council approval.

Director Erickson commented on the Competitive Grant Program. He believed part of the review criteria could 1) establish what the applicant is willing to do in exchange for the funding, and 2) and establish criteria with respect to what is funded and how much is funded as to what control mechanism is appropriate. Director Erickson stated that it would occur twice a year with the grant program and it would be discretionary by the HPB. In some cases, there may be a better tool for smaller preservation items. However, for a Landmark structure designated on the National Register and the owner requests \$30,000 for several items including a defining feature, they would want a more rigorous process.

Director Erickson was comfortable with that being part of the HPB's discretion when they review the grant process. He clarified that he was only talking about competitive grants; not emergency grants. Director Erickson thought he and Planner Grahn needed to give the emergency grants a little more thought to see if there was a mechanism that could respond to all their comments and still stabilize a historic structure. If the HPB wanted to send that recommendation to the City Council, the Staff could draft it and let the elected officials decide if it was right. The HPB could then address the specifics in the review process.

Board Member Beatlebrox was more comfortable with that approach. Board Member Hodgkins agreed. He has no experience in looking at these applications and he was trying to think of all the different possibilities that might come before them. He thought the Board needed some flexibility.

Director Erickson stated that they need to look at what they are trying to accomplish, what the owners are willing to do, and the best mechanism to make it happen given the funding constraints.

Board Member Hutchings understood that the idea would be to bring the proposal to the Board. If it was something as simple as a door a preservation easement would not be required. If it was a \$60,000 project, a preservation easement would be required. Director Erickson believed the Competitive Grant application will stipulate what the property owner is willing to do. The Staff will prepare a Staff report and make a recommendation. The HPB will make the final decision.

Planner Grahn thought it would be helpful for the Staff to meet internally and have a more in-depth discussion with the Budget and Finance Departments. Director Erickson noted that this item was scheduled to come back to the HPB. He actually liked the idea of the Board having the ability to make a case by case decision under established criteria. The Staff will work on the criteria before the next meeting.

Mr. Hutchings asked the Staff to look at the easement language to make sure it was all necessary. If it were streamlined the owners might be more willing to accept it. He understood why all the provisions were good for the City, but he did not think they needed all of them and some were one-sided. Mr. Hutchings suggested that they could make it simple and cite the Historic Guidelines. Planner Grahn offered to compare it to other organizations. She believed that part of the issue with the easement is that they compared it to so many organizations and it was piecemealed. City Attorney Harrington noted that it was written not just for the Grant Program but also for tax credits and/or working with State Agencies or Tax Agencies who need a National Standard Form with all those provisions.

Planner Grahn stated that for the next meeting the Staff will come back to talk about what the City gets in exchange for its money, the score card, and public engagement.

Chair Stephens opened the public hearing.

Sally Elliott stated that you never know when you start a project whether the public will appreciate it or buy in on it. They now have 305 registered donors to the project. Ms. Elliott stated that it has to be a public/private partnership. There is no way the public could fund an entire project and the private interests are happy with what the Friends of Ski Mountain Mining History are trying to do. She thought the discussion about easements was very appropriate and critical. When she and Doug Stephens worked at Utah Heritage Foundation, they owned an easement on Brigham Young Academy, the building that they ultimately saved for the Provo Library. Without that easement Provo City would have torn down that building. Ms. Elliott remarked that easements can bring great value and great benefit. Regarding the facades, she asked Bruce Erickson if he remembered when the Fields took the Dugler building façade off and poked it up with boards and laid it out against the highway. They built a new building underneath it and put the façade back on. Without the façade easement they would not have had the ability to at least preserve the streetscape. On the issue of demolition, the Friends of Ski Mountain Mining History came into being approximately 20 years ago when United Park City Mines and Park City Mountain conspired to tear down the Kearns Keith Mill at the bottom of Pioneer lift without talking with anyone or preserving any of the elements. The community, the entire Chamber Board, the City Council, and HPB and other groups got together and chastised United Park City Mines. United Park City Mines gave \$38,000, which the City matched with restaurant tax money, and she, Maryann Cone, and Sandra Morrison constructed the huge signs that are now historic markers on the mountain to make people aware of what was there. Ms. Elliott appreciated their concern and support and all the time the Board and Staff have spent working on this. She was certain it would bring great benefit.

Ruth Meintsma, a resident at 305 Woodside, intended to make general comments. On the Mission Statement, No. 1, the four bullet points, she thought the HPB was spot on with authentic sense of place in the first bullet because that relates exactly to where the General Plan talks about character. Regarding Sites and Structures, she thought it was good to include sites because projects coming forward have needed to be moved or shifted or turned. The approval or denial involves the site which makes sites very important. The second bullet point, committing to an affordable, complete community and social equity. She understood it was important, but she did not think it read well. However, after reading Director Erickson's explanation of social equity it was clear. Ms. Meintsma asked if the sentence could be re-written to include Director Erickson's explanation. She referred to the next bullet point about encouraging projects and

the outcomes that may not have happened but for the investment. She was pleased to see that in there because it has been on and off the table because it involves whether or not someone has financial means, even though that should not be part of it. Ms. Meintsma believed that criteria might be resolved with the score card. She was excited about the score card because it will be the exclamation point to the Program. When they start using a score card, she expected it would change with almost every consideration of every project. Ms. Meintsma read from No. 2 – Eligible Improvements. She stated that two tier, competitive, twice a year was perfect. Based on past grants, she believed this was the perfect solution. The HPB has the time and the score card to make the right decisions for the money. Ms. Meintsma also favored the emergency grant process.

Ms. Meintsma stated that in her opinion, the preservation easement did not look restrictive, and in fact, was more like a badge of honor. People could still have additions and the easement did not include the interior. The inspections would only be on the interior and only if something critical was observed for the City to analyze. A property having a historic easement would give it some glory because it makes the structure more important. Ms. Meintsma was excited about the score card because it will solve many problems.

Regarding the Improvements List on Page 75, Ms. Meintsma hypothetically applied it to her neighbor who has a historic structure that is stable but minimally livable. She applied the Improvement List to see if it would help her neighbor and it works.

Board Member Hodgkins disclosed that he was currently on the Board of Preservation Utah. He noted that Sally Elliott pointed to the example of the easement that Preservation Utah has that worked to save a building. Mr. Hodgkins questioned whether that building would have been saved without the third party involvement. He did not believe it would. He stated that being on Boards such as Preservation Utah and before that with Preservation Massachusetts, they were constantly considering easements and the cost, which he understood could be a burden. However, in this case, where the easement is on the exterior and the inspections are walk-by, he thought they could come up with some kind of a third party agreement in perpetuity, so they know someone else has an eye on the structure. The third party would not have to give permission for someone to do things, but they should be informed on what was being done.

Board Member Beatlebrox wanted to know who the third party was in the example Ms. Elliott had given. Board Member Hodgkins replied that Preservation Utah did not own the building but they owned the easement.

Director Erickson stated that Park City's program would be smaller and unrelated to what Provo intended to do with that building. He pointed out that the Landmark structures and other listed structures have a third party control either through SHPO or the National Parks Service. Using the Miners Hospital as an example, Director Erickson stated that if the Miners Hospital was owned by Cleveland Inc., and they wanted to restore the building and requested a certain amount of money for restoration or an elevator, the City would immediately require a vigorous preservation easement because that building is mission critical for the historic program, the landmarks program, SHPO, and the National Parks Service.

Board Member Beatlebrox asked if the Park City Museum could serve as a third party. Director Erickson remarked that the Museum might be more vested than a typical third party. For open space easements a third party could be Summit Land Conservancy, Utah Open Lands, Mountain Trails. There are certain conservation easements with the property owners themselves that are more rigorous than what the land uses allow. Director Erickson agreed that in some circumstances a third party is mission critical, but in other circumstances where a third party may not be the answer.

City Attorney Harrington suggested that the Staff could come back with some options for discussion. Board Member Hodgkins felt there needs to be some type of mechanism to force the City to uphold an easement that was signed. Mr. Harrington stated that people are passionate on both sides with good reason, and there are pros and cons both ways. They would provide the information and the HPB could make the decision.

Legal Training – Open Public Meetings Act

City Attorney Harrington stated that the respective Chairperson is charged by State Law for conducting this training annually. The City relieves the Chairperson of that responsibility by calendaring the training each year.

City Attorney Harrington stated that because he likes to incorporate film into his training sessions, he would be showing a short clip from the movie Bridge of Spies. He would explain its relevance after the viewing. Mr. Harrington remarked that the piece he was about to show was representative of a Board Member being stalked in a supermarket by a citizen.

City Attorney Harrington explained that he likes showing this particular clip because no one intentionally decides to break Open Meetings law or due process ex parte rules. Typically, it is more a scenario where someone runs into a Board Member and tries to guilt them into a compelling argument that they are responsible for insuring the protection of the structures and doing the right thing by the community. The rules are written to prevent conspiracy behind the scenes

for the benefit of a developer. Mr. Harrington stated that when people meet Board members in the supermarket they want them to listen to them because they are the constituent; not the evil developer. People get angry when they perceive someone from the Legal Department telling a public official that they cannot meet with a citizen informally, whether it be collectively or individually before a hearing. However, they are given this advice because it is outside the context of the due process and the rules by which they agree.

City Attorney Harrington explained that Open Meeting Regulations are meant to insure the baseline and goes one step further beyond the due process of the actual hearing to make sure the Board conducts their business openly and in public. No matter how well intentioned or how good the cause, the integrity of the entire system is predicated on the openness of their act and actions.

City Attorney Harrington presented slides regarding 1) What is a meeting as it relates to the HPB; 2) emails; 3) Electronic meetings.

An HPB meeting is four members or more and the purpose is to convene for the purpose to discuss. A meeting can take place any time four or more Board members are together and talk about City business. That type of scenario should be avoided. Mr. Harrington recognized that it was difficult in a small town because there are always social settings and it is easy for the issues they face to casually come up in a conversation. He stressed the importance of remembering the basic rule anytime they are outside of their regular meeting setting. If they find themselves in an awkward circumstance, they need to be responsible and change the conversation. If that happens, they should encourage that person to attend a meeting so everyone can hear what they have to say in the proper forum.

City Attorney Harrington stated that electronic communications are prohibited during a meeting. Per State law, the Board cannot email or text one another during a meeting to prevent the perception of secret communication that the public cannot see or hear during a public meeting. Emails between Board members outside the meeting are permissible; however, they should be treated like letters because they are subject to government records and management act of disclosure. They should never email something unless they intend for the public to read it in the Park Record at some point. Emails should be treated as letter correspondence knowing that the public could GRAMA them.

City Attorney Harrington stated that because of the real time nature of the exchange with texting, chatroom, or other social media services, it can resemble a conversation. If a number of Board members are emailing or texting back and forth, they run the risk of violating the Act. Mr. Harrington stated that Utah permits them to email one another if it is permissible, but it could be subject to disclosure. Mr. Harrington provided examples of prohibited conduct.

Board Member Hutchings asked about the GRAMA request process. Mr. Harrington stated that if it is an informal request from the Media or someone of interest, they would ask for the emails and anything on that topic to be forwarded. If it is challenged either through discovery or an appeal, the City can confiscate computers or devices. He noted that the County has done that a number of times in their water litigation.

City Attorney Harrington noted that the Handbook for Officials was posted on the website. If the HPB eventually gets City email, they should make sure to keep everything on their City email when corresponding with one another. Mr. Harrington encouraged the Board to avoid email correspondence as much as possible, and keep their dialogue for the public hearings.

City Attorney Harrington stated that the Board is not permitted to talk about a particular application outside the hearing process if it is subject to an Administrative hearing. For policy matters such as LMC changes, Guidelines, grants, etc., they are permitted to talk about it one on one; but it is discouraged if possible. The Board should try to follow the spirit of the law by publicly conducting their business.

City Attorney Harrington stated that the City does not encourage electronic meetings based on past experience. It does not lend itself to the best experience in terms of the deliberative process. The City Council does not use electronic meetings unless in the case of an emergency. The Planning Commission does not authorize electronic meetings. Mr. Harrington stated that the HPB has that ability and they can make the choice to adopt a rule that allows electronic participation. Currently, the City Council preferred not to expand that use until the technical ability can be improved. If the HPB is interested in allowing it, they could request that the Staff add it to the agenda as an item for discussion.

City Attorney Harrington stated that if a Board member has a specific question or needs advice on how something should be handled, they should contact the Legal Department prior to the meeting and he will be as proactive as possible to provide a quick response.

The Meeting adjourned at 6:40 p.m.

Approved by _____
Douglas Stephens, Chair

Historic Preservation Board Meeting
December 5, 2018

Historic Preservation Board

APPROVED 1.16.19