

**SALT LAKE CITY
HISTORIC LANDMARK COMMISSION
Minutes of the Meeting
Held at 451 South State Street, Room 126
October 3, 2007**

A field trip preceded the meeting and was attended by Commission Members Dave Fitzsimmons, Paula Carl, Warren Lloyd, and Anne Oliver. Planning Staff present were Janice Lew, and Nick Norris. A quorum was not present; therefore, minutes were not taken of the field trip.

MINUTES OF THE MEETING

The Historic Landmark Commission and staff assembled for the meeting. Present from the Historic Landmark Commission were Chairperson Fitzsimmons, Commissioner Heid, Commissioner Carl, Commissioner Hunter, Commissioner Lloyd, and Commissioner Oliver.

Present from the Planning Staff were George Shaw, Planning Director; Janice Lew, Principal Planner; and Nick Norris, Principal Planner.

Lynn Pace, Deputy City Attorney was also present.

Chairperson Fitzsimmons called the meeting to order at 4:00 p.m.

An agenda was mailed and posted in accordance with zoning ordinance regulations for public hearing noticing and was posted in the appropriate locations within the building, in accordance with the open meeting law. Members of the Public were asked to sign a roll, which is being kept with the minutes of the Historic Landmark Commission meeting. An electronic recording of this proceeding will be retained in the Planning Division office for a period of no less than one year.

Chairperson Fitzsimmons inquired if all Commissioners had the opportunity to visit sites that would be the subject of discussion at this meeting. The Commissioners indicated they had visited the sites.

REPORT OF THE PLANNING DIRECTOR

The east end of South Temple Street was nominated by the Planning Division and given to the National American Planning Association for their Great Streets Program. There were about 80 applications from across the country and South Temple Street made the top 10 list, which is quite an honor for Salt Lake City. There will be two exhibits with photos displayed around Salt Lake City.

Ms. Lew added that the exhibit would be at the Union Pacific Depot and at the Salt Lake City library.

PRESERVATION PLAN

Chairperson Fitzsimmons noted the materials which were given to the Commission at the beginning of this meeting, which included: a memorandum dated October 1, 2007 from Cheri Coffey, notes from the August 20, 2007 meeting, notes from the August 23, 2007 meeting, document of bullet points produced from the discussion that occurred on August 20, 2007, and a memorandum dated August 21, 2007 by Janice Lew. Copies of these documents were filed with the minutes.

He noted that the Commission would meet on October 11, 2007 to wrap up the meeting which took place on August 20, 2007, regarding the Preservation Plan.

COMMENTS TO THE COMMISSION

Chairperson Fitzsimmons stated comments would be taken from the public for issues impacting the Historic Districts and Historic Preservation in Salt Lake City. Seeing as no member of the public expressed the desire to speak, he turned to the next item on the agenda.

CONSIDERATION OF THE MINUTES

The Commission considered the minutes for the September 19, 2007 meeting. Commissioner Hunter asked if the letter by the Deputy City Attorney Lynn Pace, which was distributed to the Commission at that meeting would be part of the record. The secretary responded that the letter would be filed with the minutes.

Commissioner Hunter then stated that she understood from the discussion with Mr. Pace during the work session, that while the minutes were the official record, other supporting documentation was not. She stated that filing the letter from Mr. Pace with the minutes would not be adequate as she wished for the document to be part of the official record.

Commissioner Hunter went on to say that she was disturbed by what she felt was an inconsistency between the ordinance and the instruction provided by council on September 19, 2007 regarding what the official record included. Given that there appears to be a difference between what the ordinance says is the record and what is defined as the record, she asked that the actual letter be attached to the minutes and thereby defined as part of the record.

Commissioner Lloyd moved to approve the minutes for September 19, 2007 with the condition that the document from Mr. Pace be included with the minutes as part of the record.

Seconded by Commissioner Carl.

Commissioners Carl, Lloyd, and Hunter voted, "Aye".

Commissioner Oliver abstained as she was not present at the September 19, 2007 meeting.

The motion carried by a unanimous vote.

The letter is attached to the minutes as Attachment 1.

The Chair then suggested that the Commission take time during the Other Business part of the meeting to consider the minutes for September 5, 2007.

PUBLIC HEARINGS

Case No. 470-07-30 — a request by Keybank, represented by architect Mark Rossiter, for final approval of building materials for a Certificate of Appropriateness for a Major Alteration to a non-contributing structure (Key Bank Building) located at approximately 290 South 1300 East in the University Historic District. The property is located in a Community Business (CB) Zoning District. On September 19, 2007 the Historic Landmark Commission approved the proposed modifications pending final approval of building materials (Staff: Nick Norris at 535-6173 or nick.norris@slcgov.com).

(This item was heard at 4:10 p.m.)

Mr. Norris explained that on September 19, 2007 the Historic Landmark Commission (HLC) reviewed a proposal for a major modification to the KeyBank Building located at approximately 290 South 1300 East in the University Historic District. The HLC approved the modification with the condition that the building materials were to be presented to the full HLC for final approval. The motion, which passed unanimously, also stated that the materials be brought back for the October 3, 2007 meeting, provided the applicant could supply samples for review. The applicant has provided information on the proposed building materials for review by the Commission. He was unable to obtain a sample of the materials, but the drawing does illustrate the texture.

Public Comment

The applicant, Mark Rossiter, passed around the colorboard which provided a sample of the different materials that would be used in the project. Illustrations were passed around to the Commission to further show where the materials would be applied.

Executive Session

Motion

Commissioner Heid made a motion regarding Case No. 470-07-30, that the Historic Landmark Commission accepts staff recommendation to approve the proposed building materials for the renovation of the KeyBank building.

Seconded by Commissioner Oliver.

All voted, "Aye"; the motion carried unanimously.

Case No. 470-07-33 Brandon Home (major alterations) a request by Minta and Bob Brandon, represented by Jason Guinn for approval to install vinyl siding to replace existing aluminum siding; replace the existing horizontal slider windows with similar vinyl windows; and replace the front door on the home located at approximately 113 West Clinton Avenue. The property is located in the Capitol Hill Historic District (Staff – Janice Lew at 535-7625 or janice.lew@slcgov.com).

(This item was heard at 4:19 p.m.)

Ms. Lew explained the proposal. The applicant, Jason Guinn, representing Minta and Bob Brandon, requests approval to install vinyl siding to replace existing aluminum siding, replace the existing horizontal slider windows with similar vinyl windows, and replace the front door on the home located at 113 W. Clinton Avenue. The Planning Staff elected to refer the administrative approval request to the Historic Landmark Commission because of the extent of the proposed work and the care that the Commission has used when considering the use of vinyl siding and windows.

She stated that the proposed alterations to the existing building located at 113 W. Clinton Avenue did not comply with the City's historic preservation standards and is inconsistent with the architectural character of the building. Therefore, Staff recommends the following:

1. That the Historic Landmark Commission deny the request to replace the existing doors, because the proposed design is not consistent with the character of the bungalow type house. Should the applicant present a door type that is more consistent with those found on a bungalow type house, staff requests that the Commission direct staff to administratively approve the alterations.
2. That the Historic Landmark Commission deny the request to replace the existing sliding windows with a vinyl sliding window, as this configuration is not consistent with the historic character of the building. Should the applicant present window types that are more consistent with those found on a bungalow type house, staff requests that the Commission direct staff to administratively approve the alterations.
3. That the Historic Landmark Commission deny the request to replace the aluminum siding including the soffit and fascia with vinyl siding because it is not consistent with the pattern of the original siding or the character of the building. Should the applicant present a building material that matches the original material in detailing or is a compatible substitute material, such as Hardiboard, staff requests that the Commission direct staff to administratively approve the alterations. These building materials would be consistent with that historically found on a bungalow type house.

Public Comment

The applicant was invited to approach the Commission to add comment and to answer questions which the Commission might have. Jason Guinn and Ryan Burlison from Champion Windows and Design approached the Commission. Mr. Guinn identified the door in photos, stating that it was actually a rear entry door and not visible from the

street. Therefore, Mr. Guinn believed that the Commission would not need to make a determination regarding the door at this meeting.

The Commission concurred that the door would not need to be considered by the Commission.

Mr. Guinn then passed a color brochure around to the Commission to illustrate the color and pattern of the proposed siding and windows.

Minta Brandon, property owner, approached the Commission. She enumerated her involvement and support in the early stages of setting up a historic district and stated that staff should have told the applicant earlier in the process that the vinyl would not be considered an appropriate material for the historic district. She stated that the Commission should approve the vinyl siding as the structure was covered with this material prior to her home's designation as part of the historic district. Her application was the result of the desire to repair storm damage and that she did not wish to alter the structure significantly.

Katherine Gardner, alternate trustee in the area, stated Ms. Brandon has kept her home in good repair and has tried to follow the rules governing homes in the historic district. She stated that vinyl would be a preferred material to aluminum, but believes that it is not considered appropriate material for use in a historic district. She also stated that she believed the guidelines were incongruous when they make some allowances for new structures that are not made for existing structures. She also stated that she did not get written notices each time the Commission met and would like to be put on a mailing list.

Executive Session

Commissioner Lloyd commended Ms. Brandon for her ongoing work on behalf of preservation. He commented to the Commission that it might seem ironic to the applicant, who has worked for years on the behalf of preservation, to find herself constrained by guidelines regarding her home; commenting that the subject structure was aluminum clad bungalow and the application arose in an effort to maintain that structure. He also noted that aluminum and vinyl siding were not typically considered appropriate materials within the historic district.

Commissioner Carl stated that vinyl windows were approved for use in the historic district on occasion.

The Chair stated that while vinyl windows were used in the past on houses, they were not used on the primary exposure, and the Commission was unable to determine precisely the original design of the windows of the subject structure. Aluminum or vinyl siding has never been approved on a house by this Commission. Hardiplank has been approved as a substitute for siding products.

The Chair stated the fact that siding presently exists on the house should not change their decision.

Commissioner Hunter wondered if the applicant could work with staff to consider a plan which would incorporate hardiplank rather than vinyl material. She suggested scheduling the rehearing date at this meeting to avoid unnecessary delay.

Commissioner Lloyd stated that regarding siding, the Commission is more constrained by their guidelines and the potential for setting a precedence. He also stated that while the Commission understands the proposal to install vinyl windows, they were uncertain as to the specific design.

The Commission noted the applicant's comment that her contractor was working within the process with the expectation that the project would be approved and then was subsequently surprised to learn that the materials were considered inappropriate for use on her structure which is within a historic district.

The Commission felt the applicant was owed a definitive answer which was not prolonged by implying that further design information was needed and once submitted, the project would be ultimately approved.

Commissioner Oliver stated that the windows were altered through time, no longer retaining the original design. She further stated that the typical window design for bungalow windows during the time period of construction of this structure were casement windows and were taller than the existing windows and opened inwards. With no evidence that these casement windows originally existed, the Commission would have a problem with requiring the applicant to increase the size of the window opening to accommodate that style of window.

Commissioner Hunter asked if there were photos of the contributory structure in 2006.

Ms. Lew responded that there were not any early tax photos and the earliest photo she could find was in the 1960s, which she had not retrieved at this point.

The Commission agreed that defining features remained on the structure so it was still appropriate to view the house a contributory structure and a historic building.

Motion

Commissioner Carl moved regarding Case No. 470-07-33 to disallow the use of vinyl siding material and encourage the applicant to consider modifying the design to incorporate materials more appropriate for a structure in the historic district. The applicant is to return to the Commission with modifications which reflect the incorporation of appropriate materials for the historic district. Approval is granted to use vinyl windows on the primary exposure, with the condition that the applicant return to the Commission and demonstrate which windows would be replaced and how replacement windows would look so that the Commission could evaluate those windows to determine if they are historically appropriate.

The rear door is removed from consideration as it is not viewed from the street and therefore, not an issue that the Commission would normally consider.

A lengthy discussion followed where the Commissioners discussed whether the applicant should obtain approval for the siding providing the applicant returns to the Commission with the materials that are appropriate or if the responsibility of determining if the guidelines are met with the presented materials should be delegated to staff. Commissioner Carl clarified that approval of materials and design would be delegated to staff.

Commissioner Lloyd suggested that the motion might be simplified to allow clarity in regarding the windows.

Amendment

Allow the staff to approve the siding so long as it is appropriate for a historic district. The applicant would be required to prepare front and back elevations so that the Commission can better evaluate the windows.

Seconded by Commissioner Lloyd.

The Commission entertained a discussion as to whether bringing the window elevations back to the Commission was necessary or if bringing the elevations to staff was sufficient. The Commission agreed that if the design approval of the windows was to be delegated to staff, then staff should receive clear and specific direction as to what the Commission considers appropriate particularly in the front porch area.

At this point Ms. Lew stated that staff would require specific direction regarding whether a slider window would be appropriate and also further direction regarding the substitute material to be used for siding.

Ms. Carl stated that the siding materials would be left up to the discretion of staff so long as they ensure that the materials were appropriate for historic districts.

After further discussion among the Commission, it became obvious that there were different views being expressed as to what direction should be given to staff, specifically what window design would be most appropriate. At this time Commissioner Carl determined that a subcommittee would be of benefit to the applicant. She made an amendment to her original motion.

Amendment

That the applicant meets with the Architectural Committee to assist in placement and design of the windows on the front and side facades. The applicant is then to return to the Commission with a modified plan for final approval.

Commissioner Lloyd accepted the amendment.

As discussion continued and for the sake of clarity, Commissioner Carl withdrew her previous motion so that she could consider additional discussion and then restate her motion.

Commissioner Hunter stated that she found it difficult to consider the case without considering the applicant who is proposing the case, as Ms. Brandon has given such active support for preservation.

The other Commissioners generally agreed that they did not find considering the case objectively an obstacle.

Commissioner Hunter stated that up to this point she had not offered comment because as a Commissioner it was her role to consider the proposed materials, not at the applicant. She then stated that the proposed materials were not appropriate for the Historic District.

The Commissioners then proceeded to discuss the case further.

The Commission stated concern regarding the delay that the applicant would experience if she were required to consult with the subcommittee and then return to the Commission with modifications. It was noted that the soonest that the case could be heard would be November 7, 2007, however, as the subcommittee is not a decision making body, the Commission would need to consider the modifications for final approval.

During a discussion between the Chair and Commissioner Hunter, the Chair determined that it would not be appropriate to ask staff to determine a preferred window design for the structure.

Commissioner Carl again stated that she withdrew her previous motion and then put forward a new motion.

Motion

Commissioner Carl made a motion regarding Case No. 470-07-33, that the Historic Landmark Commission ask the applicant to work with an architectural subcommittee to resolve the issues of: appropriate siding, appropriate window design and placement, and asked that the subcommittee meet in a sufficient time frame so the applicant would be able to return with modifications at the November 7, 2007 Historic Landmark Commission meeting for final approval.

The Chair clarified that the specific issues were the design and placement of the windows.

Commissioner Hunter seconded the motion.

All voted, "Aye"; the motion carried unanimously.

In response to a question posed by Ms. Lew, the subcommittee would consist of the following individuals: Commissioner Carl, Commissioner Lloyd, and Staff.

Case No. 470-07-35 Steven Seare Legalization/Appeal of Administrative Decision – A request by Steven Seare to legalize windows installed in the residence located at

approximately 517 East 900 South in the Central City Historic District. (Staff: Nick Norris at 535-6173 or nick.norris@slcgov.com)

(This item was heard at 5:23 p.m.)

The applicant is requesting that the Historic Landmark Commission approve windows that were added to the contributing structure located at 517 East 900 South in the Central City Historic District. The windows were installed without either a Certificate of Appropriateness or building permit.

The porch underwent a permitted renovation in 1952, which effectively enclosed the front porch and converted it into an office. When the porch was enclosed, it covered most of the defining features of the primary façade of the structure.

Staff would recommend that the applicant work with staff on an acceptable configuration of windows for this structure within a historic district. A more suitable window would be a solid plate or a composite window or a series of single or double hung windows. Staff does feel that the doors which were installed are consistent with the Residential Design Guidelines.

Staff recommends that the Historic Landmark Commission deny the request to legalize the windows that were installed without a Certificate of Appropriateness located at approximately 517 East 900 South for the following reason:

1. The window type is not consistent with window types typically found in historic structures within Salt Lake City as stated in "Design Guidelines for Residential Historic Districts in Salt Lake City.

Staff would recommend a Certificate of Appropriateness for the front door and the second level door with the following conditions:

1. That a building permit is obtained and all necessary inspections are performed.
2. That a railing be installed on the second level that is compliant with all applicable building codes and that a certificate of appropriateness is issued for the railing prior to it being installed.

As a point of clarification, the Chair stated that the Commission does not usually speak to the issuing of Certificates of Appropriateness, which is done by staff, so the issue is to determine the appropriateness of the windows which have already been installed and the legalization of those windows if they are determined to be appropriate.

In response to a question by Commissioner Carl, Mr. Norris stated that even with the primary façade obscured, staff would recommend windows which would be appropriate replacement windows in a historic district per the Design Guidelines.

In this case, vinyl could be considered an appropriate replacement on the primary façade if the historic profile was present.

Mr. Norris distributed two tax ID photos of the house. The first was in 1936 prior to the porch enclosure, the second was in the 1970s.

The Chair questioned whether the damage to the primary exposure was reversible. Mr. Norris stated that he imagined the brick wall was retained in the interior of the house.

The Chair opened the public comment part of the hearing.

Public Comment

Steven Seare, the applicant, was invited to approach the Commission to add comment and to answer any questions that the Commission might have. Mr. Seare stated that the building has been dramatically altered on its primary façade and no remnant of the original brick remained.

Mr. Seare stated that there are two windows which are used on that side of the house, one is a bedroom/den which requires a window which meets egress requirements. The southwest corner side window is a 30"x30" which does not meet egress requirements.

He further stated that the rail had been in place for approximately 30 years. The railing, which now sits on top of the porch, was permitted at the reconstruction of the porch in 2004. At this time the rail remains unattached with the plan to reattach the railing under the original permit which was issued for reconstructing the original overhang.

Commissioner Oliver asked the applicant if he had any plans to remove the plywood cladding which is on the gable end and on the first story.

The applicant stated that at this point he was considering whether to add more gables to the existing structure to make the upper level more accommodating as installation of the gables would expand the useable space. He stated that the plywood on the first level was a cap fiberboard and there is nothing structurally impacted. He plans to try to take the first floor back to the original façade as much as was possible.

The windows were flush mounted, single paned with steel trim which were replaced for safety reasons because one fell out, both were cracked, and the frame was deteriorated. The applicant stated that he felt that as the structure had been altered so dramatically, there really is not anything left of the original façade and that the windows do not detract or add to the historic value of the property. He stated that putting plated glass back into the bedroom window would not meet building code standards because it would not meet bedroom egress requirements.

In response to a question from the Chair, the applicant stated that there was no other double hung window available which would meet the building code egress requirement. He also stated that the side window would not meet egress without structural modification.

Commissioner Oliver asked Commissioner Lloyd what the International Building Code read regarding egress on historic structures.

Commissioner Lloyd stated that the International Building Code would not apply to this window.

In response to a question by Commissioner Lloyd, the applicant stated that the dimensions of those windows were 4⁰x5⁰. Commissioner Lloyd responded that a 2⁰x5⁰ double hung window could meet egress.

The applicant reminded Commissioner Lloyd that the 5⁰ describes width and not height.

Commissioner Lloyd agreed and then stated that a 2⁶x4⁰ double hung window would adequately allow egress.

Seeing as no Commissioners expressed the desire to ask further questions, and no other members of the public were present to offer comment, Chairperson Fitzsimmons closed the public comment part of the hearing and moved on to executive session.

Executive Session

The Commission entered a discussion, during which the Commissioners agreed that the structure was altered beyond the ability to return it to its original character defining features, and changing the windows would not significantly improve the situation, however, the staff recommendation was to require windows which were appropriate.

The Chair reminded the Commission that if they were to make a motion that is contrary to the staff recommendation, they would need solid findings upon which to base their decision.

Mr. Norris stated that the 1994 reconnaissance level survey indicated the structure was a grade B which means that by itself, the structure could not be considered a historic structure, it could be considered contributing to the overall fabric of the district.

The Chairperson noted that the rail was a code issue, which was not before this Commission; however, as the Commission frequently looks at proposals with a holistic view, the Commission went on to discuss the railing and exterior door on the upper story. The Commission noted that 1939 tax ID photo did not show a railing in place and wondered if it would be more appropriate for staff to work with the applicant regarding the installation of the rail, because the presence of an upper door would require a railing. The Commission also discussed when the applicant was ready to install the new door, should the design of the railing come back to the Historic Landmark Commission.

Mr. Norris reminded the Commission that the applicant claimed that there was a railing approved in 2004. Mr. Norris further stated that railings which are consistent with the guidelines are typically approved administratively.

Motion

Commissioner Carl made a motion regarding Case No. 470-07-35 that because the structure was compromised the Historic Landmark Commission would allow the replacement windows to be legalized.

There was no second; the motion failed.

Motion

Commissioner Hunter made a motion regarding Case No. 470-07-35; based on testimony received tonight, that the Historic Landmark Commission follow staff recommendation and deny the request to legalize existing replacement windows in the structure, which do not comply with the design guidelines, and were installed without a Certificate of Appropriateness.

Commissioner Heid asked if the motion to deny encompassed the lower windows and the French doors.

Mr. Norris stated that staff analysis found that the French doors were consistent with the design guidelines.

Commissioner Lloyd seconded the motion.

Commissioners Hunter, Lloyd, and Oliver voted “Aye”; Commissioner Carl voted “Nay”; Commissioner Heid abstained; the motion carried by majority vote.

The Chair suggested that as there was already an architectural subcommittee formed, the applicant might desire to speak to staff regarding the possibility of seeking help to identify windows which would comply with the guidelines.

Mr. Norris stated that he was aware of other, more appropriate windows from which the applicant could choose to replace the existing ones.

The Chair moved on to the next item on the agenda.

OTHER BUSINESS

The Chair referred to the minutes for the September 5, 2007 meeting. Commissioner Hunter reminded the Commission of the conversation that took place on September 5, 2007 regarding the reopening of the motion for Case No. 470-07-27.

Commissioner Hunter explained that on September 5, 2007, two motions were made regarding Case No. 470-07-27. During the discussion of the first motion, made by Commissioner Norie, Mr. Pace indicated that a proposed amendment should be handled separately from the motion. Therefore, Commissioner Hunter voted, “Nay” to the first motion which was then carried by majority vote. Commissioner Oliver then proposed a second motion; which was also carried:

Motion made on September 5, 2007

Commissioner Norie moved that in regards to Pioneer Park, the Historic Landmark Commission request a long term maintenance and treatment plan be developed as a part of the future

management of the park. Further, the Commission would like to suggest that this park deserves such treatment similar to any responsible preservation plan would for a historic structure. The Commission recommends that this type of maintenance treatment plan be considered for the future management of this Park. The Historic Landmark Commission delegated to Staff the task of composing a letter to that effect, which will be presented for the Commission's approval at the October 3, 2007, meeting of the Historic Landmark Commission.

Seconded by Commissioner Hunter.

All voted "Aye"; the motion passed unanimously.

During the September 5, 2007 meeting and after the break (which followed after the second motion regarding Pioneer Park), Commissioner Hunter reported to the Commission that she had engaged in a conversation with Mr. Pace in the hallway. She noted that the suggestion from Mr. Pace was based upon a misunderstanding as to what Commissioner Hunter was intending to accomplish when she proposed the amendment. She had specifically understood Mr. Pace to state the motion should be separate. Commissioner Norie entertained the motion which stated that Staff would compose a letter which would reflect the advice from the Commission. After the discussion with Mr. Pace, Commissioner Hunter reported that the letter would not be enforceable and carried less weight than had the original motion encompassed her intended amendment.

She requested that the first and second motions made by Commission Oliver, be revisited so the requirement for a mandatory long term treatment plan for the trees be tied to the approval of the project.

As Commissioner Hunter had voted, "Nay" to one of the motions made on September 5, 2007, Commissioner Carl, who voted on the prevailing side of the motion, agreed to bring the matter up at the September 19, 2007 meeting of the Historic Landmark Commission when the minutes were being considered for ratification. At the September 19, 2007 meeting, Mr. Pace responded to a question and stated that the issue of the motions made regarding Case No. 470-07-27 on September 5, 2007, could be considered on either September 19, 2007 or at the meeting on October 3, 2007 as minutes from that meeting would be considered on both of those dates. Commissioner Carl stated that she would recall the motions at the meeting on October 3, 2007.

Commissioner Oliver, who also voted on the prevailing side of the two motions, reopened the first and second motions made regarding Case No. 470-07-27 for further discussion. Commissioner Norie believed that by reopening the motions they would not be ratified, and therefore made null.

Commissioner Hunter stated that in the design guidelines, which are used for: protecting and maintaining homes, general landscapes, and vegetation it states that the relationship between historic buildings and landscape features within a historic area or

park, helps to define the historic character and therefore should be a part of the rehabilitation plan.

She read from *The Secretary of the Interiors Standard for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*; which recommend identifying, retaining, and preserving landscape features such as parks, gardens, and trees which are important in defining the overall historic character. The key words used were identifying, retaining, preserving, protecting, and maintaining landscape features; specifically trees and plant material. Loss of character in these areas, is often the result of a cumulative effect caused by removing these types of features as it would be from a building. Thus the guidelines have an impact on the overall evaluation of physical conditions and should always be used.

Motion

Regarding Case No. 470-07-27 Commissioner Hunter made a motion that the Historic Landmark Commission approved the project with the following conditions as recommended by staff:

- 1. That the Commission approves removal of the sixteen trees with the condition that 13 new trees are planted along 400 South;**
- 2. Removal of six trees around the park in order to accommodate a new pathway;**
- 3. That any other tree removal, additions or transplants shall be reviewed by the Historic Landmark Commission;**
- 4. A long term maintenance and treatment plan be developed and implemented as part of the management of the trees of Pioneer Park similar to what any responsible preservation plan would be for a historic structure including identifying, retaining, preserving, protecting and maintaining the trees, including all heritage trees.**

The Chair clarified with Commissioner Hunter that this is the new motion, which replaced the old motion.

Seconded by Commissioner Oliver.

All voted, "Aye"; the motion passed unanimously.

Motion regarding the minutes

Commissioner Heid moved that the minutes of the September 5, 2007 meeting be accepted with the corrections, revisions, and amended motions which were passed tonight.

Commissioner Hunter seconded the motion.

All voted, "Aye"; the motion passed unanimously.

Commissioner Hunter stated her concern regarding the legal opinion stated by Mr. Pace in the letter dated September 19, 2007 regarding Case No. 470-06-57. Referring to her copy of *Robert's Rules of Order for Dummies*, Commissioner Hunter stated that the

information referenced in the book was not consistent with the opinion stated by the City Attorney, Mr. Pace.

At this point the Chair noted that Mr. Pace had been in attendance earlier in the evening, but was no longer present to respond to comments made by the Commission.

She asked the Commission to consider asking staff and the Salt Lake City Attorney's office to review Mr. Pace's opinion and create a legal interpretation. She further stated that the opinion would be necessary to set a precedence for future actions of the Commission and not necessarily specific to Case No. 470-06-57. Finally she stated that both Community Economic Development and the City Attorney's Office should work together to come up with an interpretation.

The Historic Landmark Commission generally agreed that an opinion would not be sought to specifically address Case No. 470-06-57, but would benefit the Commission by providing a clear procedure to follow in future, similar instances.

Commissioner Hunter stated that if the Commission did not desire to make the request, she could send a letter, as a member of the Salt Lake Coalition for Orderly Development and ask for a legal interpretation, in reference to *Robert's Rules of Order for Dummies*.

The Chairperson stated that Roberts Rules of Order were the guidelines which governed the actions of the Commission during the meeting, and questions regarding the interpretation of those rules would have been answered directly by Mr. Pace earlier in the meeting when in attendance. Chairperson Fitzsimmons further stated that it was perfectly appropriate to ask the question, if the Commission had issues with Mr. Pace's stated opinion.

Commissioner Hunter clarified that she was asking that Mr. Pace revisit Roberts Rules of Order; and specifically a couple of items which she found referenced in *Robert's Rules of Order for Dummies*, because in her opinion, the question of the rules governing the vote of the quorum regarding the Chair could be decided either way.

When Commissioner Oliver asked Commissioner Hunter to specifically state a page reference for Mr. Pace to review, Commissioner Hunter replied that it was difficult to specifically state the item, but in general, she explained that the book read that in the case where Robert's Rules of Order might conflict with established custom, Robert's Rules of Order takes precedence, unless there are guidelines which overrule them. In the absence of guidelines, the body would proceed with their normal method of operation.

She reminded the Commission that their normal method of operation was for the Chairperson to not vote unless there is a tie. She explained that *Robert's Rules of Order for Dummies* read that it applied to the quorum doing business, but did not state that the quorum needs to vote. In other words, if five members of the Commission assemble, it constitutes a quorum, and they can do business, but as it is the normal means of operation for the Chair to not vote.

Commissioner Hunter stated that her question for the City Attorney's Office is, if the Commission had the authority to move forward with four members of the quorum empowered to vote, or were five voting members actually required to carry a vote, since five equals a quorum?

The Chair stated that Mr. Pace did speak to that issue and his opinion was that the Historic Landmark Commission was proceeding appropriately when they heard the case with one member of the quorum acting as Chair and unable to vote.

The Historic Landmark Commission agreed in general that an opinion would not be sought to specifically address Case No. 470-06-57, but to benefit the Commission by means of providing a final procedure to follow in instances similar to that case.

Resolution

The Historic Landmark Commission requires the Salt Lake City Attorney's Office and the Community Development Department to respond to the specific question: As it is the Commission's custom to hold regular business with no less than five members; which constitutes a quorum, with one of those members acting as Chair and not voting except in the instance of a tie, does this mode of operation precede Robert's Rules of Order? Stated another way: What constitutes a quorum for doing business as opposed to a quorum for voting?

Second Commissioner Lloyd.

All voted, "Aye"; the motion carried unanimously.

There being no further business, Commissioner Lloyd moved to adjourn the meeting at 6:20 p.m.

David Fitzsimmons, Chairperson

Kathryn Weiler, Secretary