

**Commission for Cultural Affairs
July 31, 2013 10:00 a.m.
Meeting Minutes**

FINAL, MARCH 6, 2014

Teleconferenced:

Department of Conservation and Natural Resources
Division of Water Resources, Tahoe Hearing Room
901 South Stewart Street, Second Floor
Carson City, NV 89701
&
Conference Calling

1. Call to order by Chairman Robert Ostrovsky, (the Chair) at 10:05 am.

2. Roll Call:

Commissioners:

Robert Ostrovsky, Chairman (Board of Museums and History, Governor's Appointee) **Present Via Phone**
Robert Stoldal, Vice Chair (Board of Museums and History) **Present Via Phone**
Linda Deacy (State Council on Library and Literacy) **Present**
Michael Hillerby (At-Large, Governor's Appointee) **Present**
Joan Lolmaugh (Nevada Arts Council) **Present Via Phone**
Tom Fay (Nevada Humanities) **Not Present**

Staff Present:

Rebecca Palmer, Historic Preservation Office **Present**
Kathryn Kochen, Historic Preservation Office **Present**
Susan Boskoff, Nevada Arts Council **Present Via Phone**
Peter Barton, Museums and History **Present**
Shane S. Chesney, Senior Deputy, Attorney General's Office **Present**

3. Public comment:

Guests:

Melissa Cleary, Huntridge Foundation **Present Via Phone**

4. Approval of the minutes from the previous meeting (March 19, 2013)

Motion to approve as submitted: Stoldal; second by Hillerby.

Motion passed unanimously.

5. Staff Report and current grant project status report.

Palmer informed the Commissioners that she is as of August 1, 2013 the new State Historic Preservation Officer and Administrator.

Palmer had no comments on Items #1 to #4.

Item #5, the minutes she also had no comments and did not receive any requests for changes.

Item #6, the three active grants, *Palmer* wanted to note for the record that two of the funding agreements have been extended. The first has been extended until September 2013, Storey County. They have only a small amount left and should finish that out by that extended date. The second, Augustine's has been extended until December 2013 and they are also expected to spend out their entire grant. What you have in the supplemental materials is the requested reimbursements and also the totals that were granted to those three applicants.

Palmer stated that Item #7 is a little more substantial.

First is Item #7a which is a section of AB505 which describes the requirement to issue a million dollars in general obligation bonds to support the CCA program in FY13-14. According to the Treasurer's Office, they are expecting to issue those bonds sometime in January. They have not given us a firm date but that January is the goal. *Palmer* will notify all of the members, first the Chair, whenever that bond sale occurs.

Item #7b is the proposed updated draft application. If the Commission chooses to have applications for that one million dollars...

Stoldal asked if the bonds would be issued in January, when would the money actually become available.

Palmer responded that the Treasurer's Office had not given her a date or a time, just that they would be sold in January.

Stoldal asked if any of the Commissioners could recall when they had become available.

The Chair responded that no, he did not recall.

Lolmaugh responded that it seemed to her when the bonds were sold in January the money was available the following July. She was not sure but thought it was six to nine months after being sold.

Stoldal agreed that was what he remembered also. He commented that for planning purposes, they should have some kind of idea and if someone could find out at some point, it would be helpful.

Lolmaugh agreed and commented that when they would meet in March to review the applications it would take the staff some time to get the contracts out and get them back.

Palmer stated that the only date she had was January and that was the only information that the Treasurer's Office would provide. She did volunteer to go back to the Treasurer's Office and ask if they have any other definite information.

The Chair said that would be fine and urged her to go back to her report.

Palmer stated that she had included an updated draft application with the supplemental materials and she assumed that everyone had received them. Item #7a is the draft application. Item #7b through #7f is supplemental information she had included in order to generate a discussion and action on how the Commission would like to proceed with the funding of administration, per diem and travel, given the current, what SHPO interprets as restrictions in the statutes. The only report that she would make here is she interprets the statutes as limiting the money for administration to the interest earned on bonds. The current amount of that interest, according to the Treasurer's Office, is \$5900.00, a little over.

The Chair verified the amount with Palmer, \$5941.00 was what was left for administration and per diem and travel for the members. The Chair asked if she was planning to address other funding which might be available.

Palmer replied that she was going to talk about a temporary fix. The Chair instructed her to continue with this discussion.

Palmer stated that she wanted to move down the items so that she could explain them. She pointed out that there was a page showing the current interest balance, Item #7c.

Item #7d is the statutes. Particular attention should be paid to NRS 233C.200, sub part 5 and NRS 233C.230 sub part 2, which talk about how the money can be spent, both from the bonds, the principle and the interest. Palmer made a suggestion that for the interim for FY14-15 that SHPO could fund the administration, travel and per diem for the Commission for Cultural Affairs as a temporary measure, to supplement that \$5900.00 that is left in the interest. But for SHPO to do so, the projects must meet the requirements of the National Park Service.

In Item #7e, a page of the Grants Manual which talks about what can be paid for. What would be funded would be considered Development projects and mortar. Development projects require that the property be listed in the National Register of Historic Places.

Palmer had asked our National Register Coordinator to look though the list of individuals and organizations, which sent in Letters of Intent, Item #7f, and determine which ones were listed in the Register. According to our Coordinator's research, most of them were listed in the Register with a few exceptions, noted with "NA". These were either not found or could not be determined as listed.

The Chair asked, of the 12 projects listed in the previous meeting as priorities, were all of those listed on the Register?

Palmer responded that yes, she believed they were.

The Chair stated that that was helpful. *The Chair* asked what the administrative budget was going to be, guess would be fine.

Palmer said that she really could not guess because SHPO had been using a contractor and limping along with the three remaining. SHPO's estimated expenditures, not counting per diem and travel for the Commissioners, was in the vicinity of \$10,000. That's just for the three and only for \$497,000. If that figure was doubled it would be somewhere around \$25,000-\$30,000 which would only be an estimate. That would not include per diem or travel. The three grants that received the \$497,000 did not use any per diem or travel.

The Chair reminded Palmer that that was the reason for the phone meeting to save some money. *The Chair* asked if it would be reasonable to consider the Commission, not SHPO, but the Commission going to Inter Finance and ask for supplemental funding for administration for these grants.

Palmer replied that yes, that would be very reasonable and that it would certainly be an option. If the Commission chooses to go that direction she would certainly pursue that. However, SHPO had volunteered to provide the money for the administration in FY14-15 and that offer still stands.

The Chair asked if that still does not include any travel money.

Palmer replied that it would include travel, but she could not estimate what that would be.

The Chair stated that they would be robbing Peter to pay Paul and who is it that would be shorted.

Palmer agreed that he was right it would come from someone else's pocket. It would come from the Historic Preservation Fund sub grants, which would include Certified Public Governments, local governments of other kinds and private non-profits.

Lolmaugh asked *Palmer* if the supplemental monies coming out of the other budget funds FY14-15. What happens next year in FY15-16? Are we back in the same boat, supplementing the administrative budget again? If this was the outcome she agreed that it would be wise to go to the Interim Finance Committee.

Stoldal asked if the money they would be taking from would it be from the CLG?

Palmer responded that yes, it would partially be funded from the CLG money, although we would be obligated by law to give ten percent of the grant to CLG's so we can't drop below the ten percent, but yes it would be partially be funded from CLG's, partially from other applicants.

Stoldal stated that he thought that it would really be robbing Peter to pay Paul. The second part is that they would be limited to only those that are on the National Register and are clearly narrowing it down in many ways.

Stoldal wanted to know what other source would be contributing.

Palmer replied it would be other sub grants such as the Stabilization and Repair of the Churchill County Courthouse, for example, would if they applied receive less money. Rehabilitation of the Storey County Courthouse, they would receive less money. All across the board there would be less grant money available.

Stoldal stated that he knew that these were just estimates and that *Palmer* was looking at \$25,000-\$30,000 as just a rough estimate of money that would need to be taken from the various sources.

Palmer replied that that was very rough and would be used to supplement the \$5900 left in the interest.

Stoldal stated that it did not include travel.

Palmer agreed that it did not include travel and they would have to add about \$5,000 to include travel and per diem.

Stoldal stated that they would be looking at potentially about \$40,000-\$45,000 and would be rough numbers. The other option would be to go to the Interim Finance Committee. He stated that this was something that has to be managed and to not have any funds to do that would be a very logical way to approach the IFC. He pointed out that they would request more details than our rough guesses that we are making today.

Hillerby stated that the potential problem he sees with the IFC is to get a supplemental is just that. It is supplemental to a budget account we already have. We don't have any General Fund budget money. We only use the interest money for this so he doesn't know if there is any way to ask them for money they didn't budget.

Palmer stated that this would be an interim measure that would be done for this biennium budget. The longer term and more permanent solution that she would recommend here and also in her staff report, is found on Item #7g which is a section of the statute from another bond program for the Department of Conservation and Natural Resources where this is written to allow for the principle to be used to pay administrative costs. This would be what she would suggest for the next Legislative session is perhaps the Commission or the SHPO could put in a BDR to change the statute, similar to the language found in this bond program to allow for the principle to be used for the administration of the program, up to a percent. This program has been told by the Treasurer's Office that five percent would be an appropriate max cap on the administrative costs. In summary Palmer pointed out that she had given all of the information she thought might be necessary. If there was something missing she would be happy to provide it. What she needed to know was that she needs guidance and a decision from the Commission as to whether the draft application is appropriate, any changes needing to be made. She needs some action on what to do with the administrative, in the temporary and whether or not the suggested permanent solution is something the Commission wants to consider.

The Chair stated that he would consider all of that under Item #7 application process and go on to the bond sale. He asked Palmer to go ahead and continue on the staff report and that they would consider the items as they came up in the agenda.

Palmer stated that Item #8 was a discussion of the Huntridge Theater, discussion only. SHPO included information, one covenant on the Theater, an example, a second covenant. We just included the one as an example and included one funding agreement as an example. Palmer stated that that concluded her staff report.

The Chair asked if there were any questions from the Commissioners.

Stoldal responded, only as they go through the items.

7. Application process and form for next bond sale of \$1 million in accord with AB 505; section 27 (assigned chapter 445).

The Chair stated that the issue of how they will determine who will be eligible for the grants will need to be tackled. But first they will address the application process. He asked Palmer if as he understands the application is the same as the last cycle or were there changes?

Palmer replied that that was correct; it is the same as the last cycle. The only thing that had changed was the dates. She pointed out that on Page 6 of the application SHPO has inserted in it application dates and they are just for discussion purposes only. The date of October 1st was inserted just to put in a date, rather than leave it blank.

The Chair asked if any of the Commissioners, having the experience, have any comments or suggested changes to the application? Hearing none the Chair asked for a motion to approve but decided to talk about the date. Using the October date, it would be the same cycle as the last process and asked for confirmation of that.

Palmer agreed that he was correct. The application would have to be in the SHPO office or postmarked by that date.

The Chair asked if we would then consolidate them and distribute them to the Commissioners and they would hold a meeting in March to make decisions about those applications. They would follow this with a funding agreement for those applications. If Lolmaugh is right probably around July 2014.

The Chair asked Palmer if it was reasonable for staff to be able to handle. He realizes that it would depend on how many applicants and how many funding agreements there would be. Certainly only \$1 million will create less funding agreements and less work too.

Palmer responded that it would indeed be less and would be a workable time frame.

Hillerby asked if historically have they given applicants about two months. He wanted to make sure that enough time was given to the applicants.

Deacy commented on the fact that the dates given are just sample dates, however if they looked at the October date and backing up from that it would mean the Letters of Intent would be due tomorrow. So they would be essentially saying Letters of Intent would only be the ones they have already received as a part of the Legislative session. They would not be asking for Letters of Intent from additional applicants.

The Chair responded that that is a decision they have yet to make. He stated that even if they only went with the priority list already created they would still need Letters of Intent from them and the timing is a little difficult. He asked if she was suggesting that the date be moved 30 days to November 1st.

Deacy replied that if they were going to request something other than the priority list already created then they will have to rethink the timing of this.

The Chair asked Palmer if this date was moved would it significantly affect her office operation?

Palmer replied that they could manage it.

Hillerby stated that he had the same question. Our Letters of Intent was only for new applicants or a new building from an existing applicant and depending on what is decided, to limit the applicants in this round to those who applied to us in our last meeting, whether they take those priority or others, they've all already sent something. The only thing that would change is if they were to open up to new applicants who they had not heard from in March.

The Chair suggested that he would take a motion to approve the application and then a second motion later to approve the timing of the dates.

The Chair would take a motion just to approve the form of the application.

Hillerby made that motion.

Lolmaugh seconded the motion.

The Chair asked for any discussion about that motion.

Deacy stated that she did have a question about Page 3 of the application about how the Department of Cultural Affairs are described, which is in no way how the State looks at this time, so an update on that page would be needed.

***The Chair* asked if this update could be included in the same motion, that it would reflect the changes in the structure of the State and the Commission.**

***Hillerby* agreed that that would be fine and he would amend the motion accordingly.**

Stoldal asked if this application, the way it is written limited only to the new applicants or the ones that had already applied. Does this application open it up?

The Chair asked if this is the application that would be requested for the applicants to complete. He stated that everyone who applies would have to fill it out. What was received earlier was Letters of Intent and information, not the specific stuff and was that the answer *Stoldal* was looking for.

Stoldal replied that it did. It seemed to him that they would do it in reverse by deciding where they were going to get the funding from, because if the funding was to come from SHPO and therefore only those that are on the National Historic Register, they would need to change the application. Part of it would be the Register status and didn't know if they would have to go back and change to clean those things up and take them out because they take SHPO's money.

Palmer responded that they did consider that and what could be done is she could prepare a letter from staff, including the signature of The Chair, that would indicate that while the application allows for any resource to apply. Those that could be considered in this biennium would be those listed in the Register and just leave the application as it is.

Hillerby asked Palmer if the administrative expense that a non-register applicant... the only thing they couldn't use is the money for travel, correct? Are you saying even a percentage of staff time...

Palmer replied, yes it is the staff time. It would be both the General Fund match and the Historic Preservation Fund federal dollars could not be used for anything that's not listed in the National Register of Historic Places. All of SHPO's funds are matched monies. There is not an extra pot.

The Chair asked Stoldal if that information dissuades his concerns, a separate letter, if they go that way.

Stoldal said yes.

The Chair asked for any other comments. **He stated that there was a motion to approve the application with the changes noted on the structure of the operation of the Commission. He asked for all those in favor?**

The vote was unanimously yes and all the Commissioners supported that motion.

The Chair stated that they would come back to the timing of those applications.

The Chair said that it would be appropriate for them to talk about who should be permitted to apply. They had a number of choices, one being the open application process, which had been done in the past. It allows anyone who otherwise qualifies, a non-profit, a governmental agency to apply. There would also be the short list, which was created in the last meeting, which were the twelve applications that they felt were or the twelve Letters of Intent that they felt were high priority. The Chair opened it to the Commission to discuss whether they want to focus on previously identified high priorities or whether they want to expand the application process to include others. Obviously going with the short list leaves only twelve applicants that may apply. The other choice will probably generate 30-35 applicants as historically that has been the numbers received. The Chair opened it to the Commissioners to discuss.

Deacy stated that when they spoke with these groups about the information that they had asked them to provide, they were assured at that time that it was not going to be the basis of an upcoming grant cycle. The Commission was gathering that information to use for advocacy for the Legislature, not to predetermine grant eligibility.

Stoldal responded that that was what he remembered as well.

The Chair asked if that meant the open application process.

Deacy replied that that was her understanding.

The Chair asked if any other Commissioners had any other comments.

Stoldal pointed out that one of the criteria over the last decade or so was that if there was an emergency or high priority. The Commission has always used that as a filter and giving a nod to that. He didn't feel that the previous list would be thrown out completely. He feels that this needs to be an open process. It would be simpler if they just took the five or top ten and have them make presentations for the money. He doesn't know what the legislation was for the bonding, if that has any definition for the revenue where the bonds would be funded or whether it's given to the CCA and they decide. He would also ask legal if there the Commission would be able to create non-statutory filters for how this money is spent. He thinks there is statutory information under the CCA creation.

Chesney responded that he had not reviewed the statutes, but his experience tells him that this should be an open process. As far as filters, you really have to watch out, because you don't want to subject the Commission to liability by going beyond what the charge is with regards to rewarding these grants. We can definitely look at filters and he would review it for them if they felt it was necessary.

The Chair stated that using an open process, like they have always done in the past, is ok with the Chair, with the clear understanding that it creates a larger administrative burden on SHPO, which increases the cost of dealing with all of these documents and having to manage all of these folks. Prior to the hearing where we actually grant funding and he is assuming that it's an issue SHPO can handle or is going to cause problems. He would expect 30+ grant requests if they go that route.

Palmer agreed with that expectation. She indicated that her office could handle it if it means preserving the integrity of the Commission's process. That would be fine with her.

Hillerby said he was trying to think back to beyond what was in the minutes of the conversations and they are seeing a lot of their long time applicants and he is with Deacy. He feels like if they didn't assure them there was at least some conversation that this was not necessarily the cutoff as to whether they would consider their applications. That said and historically they have almost always given nearly every applicant some amount of money. He is really concerned that a million dollars spread thirty ways is not going to help anybody at all. If they are going to have an open process with the one filter he thinks they have to include, which is the National Register, because of the limits on federal money. He would certainly be vocal at the meeting that in their first round of cuts, if you will, or weaning through the applications that they make an effort to say no to half of the applicants. That's not definitely a hard number but whatever they've done they have always had a pretty open process. It's been pretty consensus based on how the Commission's done the funding. Those million dollars 30 ways would be all but useless. He would like to see them, whether it's put in the application in our scoring process, the review of that they go into this with the mind that they are going to cut that list at least in half.

The Chair stated that each Commissioner would have to make a decision based on their priorities. The Chair say that they ought to make it clear to the applicants that there is a limited amount of funding in this cycle, much smaller than the last couple of cycles. The applicants need to bring their expectations down to some reality and that they will not be able to do that anymore. They can try and explain that to the applicants. The Commission has established a history that if there are 30 applicants, three or four get zeroed out and that's all. The Chair stated that from what he was hearing, the consensus from the Commissioners that they would like to have an open process and permit anyone who is otherwise qualified, with the caveat that they have to meet the standards of the current statutes, which is a non-profit or a governmental agency and we would add a third, which would be they would have to be included in the National Register. The Chair asked if that was what he was hearing.

Hillerby responded that yes he thinks that is correct and he would agree with that.

The Chair reminded them that there was one new filter and that is the National Register requirement, only because they have no other way to fund the administration of the grants. This would in itself probably eliminate a couple of the grant applications, but not that many.

Hillerby said it looked like four on the list, one of them they are not entirely certain about, but that only takes them down to 32 or 33 applicants so there will still be plenty of competition.

The Chair agreed assuming that we don't get new ones from people who will apply. That is a possibility.

Stoldal stated that if they were going to limit it to the National Register then he thinks they need to clean up the application and put that in the cover letter. If that is going to be their filter and he was not saying the he was opposed to it 100 percent, but if that is going to be what they use then it should be in that first sentence of the first paragraph. Don't even think about applying if you don't have a Historic Register status. He would also like to check again to make sure that whatever statute or however the bonding money was approved that there was not something in there that says that it is open to everybody in the State of Nevada.

Palmer responded that the way she read the bill and the statute, it indicated that the money would be spent by the Commission for Cultural Affairs in accord with the statutorily defined procedures and process.

Stoldal asked if that included that it has to be on the Historic Register. It only has to meet tourism and that's why he asked legal if they have the power to narrow it down beyond what is in the statutes.

Chesney asked if he understands it the grant money can be awarded, is separate from the administration money and it's because of the administration that it can only be used for.

He said they could still award grant money to a non-Historic Register entity or property or whatever, but they are saying they would not be able to administer it because there would be no money to fund the administration and there is no way around that. The majority of them are going to be National Register, but what if there is that one. He asked if there was a way of figuring something out.

Palmer replied that one suggestion would be that they very carefully exclude the \$5900 left in the interest and use that only for the administration of the one project or two projects that are not listed in the National Register of Historic Places. The accounting for that would be a nightmare, but that SHPO could do it.

Chesney agreed because the one thing that one member pointed out that he didn't think that the statute limits it. So to just go and put that on there would not be in accordance with the statute, so that could be a good solution.

Hillerby said that he was handing the NRS to Chesney. He read that their program for awarding assistance includes, specified the criteria which proposed projects would be judged. The criteria must include, but not be limited to a consideration of the degree to which a proposed project and then they have all the requirements that they have been using.

Palmer pointed out that the information could also be found in Item #7d.

Hillerby said it was 233C.095 and that it did not say what they have to do, but it did say specifically that they are not limited to those criteria.

Chesney said that it was all speculative at this point, but he thought that they did have a way to do it, so he would say the best option would not be to limit it on the application or cover letter to Historic. The applicants will probably be on the Register anyway. But if that one comes through they don't want to have a problem. They will want to have a way out.

Hillerby stated that he didn't know if they were ready for a motion per say, but back to Commissioner Stoldal's comments about the Letter of Intent and the wording in the application. He would be comfortable and would support the idea that they limit the applicants to at least those that went through the Letter of Intent process earlier this year. He would not prefer to see any new applications. He thinks they have a lot for the limited amount of money. He felt the staff made a good effort to let people know that this was out there. They have not historically had too many new applications in any year. Typically long time applicants, some new ones this time. SHPO reached out, people know that. They did start that process. To say that the result of the March meeting would not necessarily keep those people who submitted Letters of Intent to be able to compete for money and he thought that they had reached that point in their meeting. He would be happy limiting those that are already in the process.

The Chair asked what the other Commissioners thought of that proposal.

Lolmaugh replied that she understood very well what Hillerby was saying, but she is a little uncomfortable with that, because it seemed to her that when they asked for the Letters of Intent it was for primarily wanting to know what the financial needs were for the Legislature. She just has so admired the open application process which has been a part of the Commission's history. She would prefer that they open it up and the Commissioners just have to make a hard choice, making sure that those top applicants are the ones that are awarded the amount of money that is needed to either get them started or to complete the job.

Chesney stated that he represented Economic Development Commission and he recalls when they had grants, they denied a large portion of them. It only went to the project that they thought were worthy, so he doesn't think there would be any constraint or feel guilty if they don't give everybody some money.

Stoldal said that he thinks that there is going to be less of an administrative challenge, based on the conversation that he has heard as well as what he was thinking. He would leave the application process open on the front side. The reality is what Commissioner Hillerby said. In the past they have had three million plus and they tried to give everybody something that would keep their project moving. He thinks this time around with a million dollars there won't be 15-20 folks that SHPO will have to administer. He believes that it will come down to they will have to decide on those projects that they can fund now that will make a substantial substance difference. They could very well end up giving the million dollars and dividing it by five or six, maybe seven ways, so he doesn't think that there will be that many projects to administer. So, he would leave it open on the front side, knowing full well that most of the projects and they clearly put it in the cover letter that funds are very limited. The project had better have some meaning and importance to the people of Nevada. That was his thinking at this point.

The Chair agreed and thought it should be open and make it clear to the applicants that they have very limited funding. His concern was that some of the applicants spent a considerable sum of money to prepare the apps, engineering reports and some other consulting reports. With that investment the applicants should be aware that there will be a high risk this time around with the limited funding. So long as they are aware of that and that they don't think the process of distribution will be the same as the past, because he doesn't think that it would be possible to do so. He would support a completely open process.

Hillerby stated that Lolmaugh's comments and the others are correct in reality. He was trying to streamline what the staff and the Commissioners have to go through. He would be fine with the completely open process on the front end. He is with the Chair in regards to making sure the applicants are aware that 90 percent of the applications will not be funded.

The Chair replied that on that premise an open application process and wanted to know if the date of November 1st be an appropriate date and the applicants would have to submit a Letter of Intent if they are new.

Palmer responded that that would work. With the new applicants submitting a Letters of Intent on September 1st and the applications being received by or postmarked by November 1st so everything moves back a month. SHPO could accommodate that.

The Chair asked for a motion.

Stoldal made the motion and Hillerby seconded the motion.

The Chair acknowledged the motion that all applicants are aware of the change and that the Letters of Intent for new applicants would be due by September 1st.

Palmer confirmed this date.

The Chair continued, in anticipation, because they had not set the date yet, of a first quarter meeting of the Commission to review the applications and determine the grants.

Stoldal replied that that was exactly what his motion was.

The Chair asked for any further discussion.

Palmer clarified that the statement concerning the high risk and limited number of potential funded projects to be in a cover letter.

The Chair said it would be in a cover letter and not a part of the application. It would be a cover letter from the Commission.

Stoldal agreed this was correct.

The Chair asked for a vote. The vote was unanimous by all Commissioners present.

Stoldal asked *Palmer* if the dollar figures had been totaled up on the applications that made it through the first process.

Palmer replied that they had but did not include it in the staff notes. She offered to provide them.

The Chair stated that it would be a good reference point if they were to approve those top ten, would they have spent more than the million dollars.

Palmer replied yes.

Hillerby stated that he had the list from the last meeting and would add it up while the meeting resumed.

The Chair asked if there needed to be any kind of motion to support the SHPO offer of funding as indicated or would it be an administrative matter.

Palmer stated that it would be an administrative matter and if the Commission agrees with it that is what will be done.

The Chair agreed with this and he thinks the other Commissioners did too. There were several alternatives but he would take it upon himself as Chair to speak to the Chairman of the Interim Finance Committee to see if there would be any hope of finding any other source of funding. He was concerned about spending dollars that would otherwise be spent on other worthy projects in the State. If it were the only alternative they would support the decision the Agency had to make. The decision SHPO would make next year and whether they want to try to change the funding mechanism and that would be an administrative decision that the Department of Conservation would have to make. It would not really be the Commission's call but they would support that. The Commission did not have any BDR's of their own. Only the Department of Conservation has the BDR rights.

Palmer informed the Commission that she had approached the Department and they were aware of the problem and is preliminarily supportive of changing the statute, especially since the example that she had on Item # 7g was taken from one of their own programs so they were very familiar with this.

The Chair stated that if they needed to take action on that they could list it as an agenda item in the next meeting. If they wanted to take a vote just to support the concept then this could be added to the agenda. He asked if there were any other items under Agenda Item #7 .

Palmer replied that she thought they had covered all of them.

The Chair moved on to Agenda Item #8, which is the Huntridge Theatre Covenant review.

8. Huntridge Theater covenant review (information and discussion).

The Chair had asked for this to be put on the agenda because there had been so much publicity in Southern Nevada about this theatre. Some individuals have tried to purchase the building and he thought from what he had read and maintaining the buildings historical composition and use it for public purposes. Questions were raised to him by the press about what the Commission's position was and he replied that he didn't know.

The Chair's telephone was disconnected and the Commissioners agreed to wait for him to reconnect.

Hillerby mentioned at that time that the total dollars for the before mentioned applicants came in at almost exactly four million.

Stoldal replied that even if they went with the high priority list they would have to reduce that substantially. So they have their work cut out for them.

The Chair checked back in and explained that his phone had cut him off.

The Chair asked what had been said while he was gone.

Stoldal replied that *Hillerby* had come up with a number of four million dollars from the first go round on the top ten applicants and they have their work cut out for them and when they receive the new round how difficult it would be.

Hillerby stated that the Indian Commission was \$1.6 million of that, which is a bunch, and the low end was Mineral County at \$13,000. A lot of money was requested just in those top twelve.

Stoldal asked if the Huntridge matter largely came up, he was invited to speak for the panel about the future of the Huntridge. He went through the research that was provided for him over the last decade or so by the Commission on the Huntridge. He uncovered the covenant and he brought up in the meeting that the covenant extends through 2017 and in reading it, it requires the current owners who accepted the covenants when they purchased the property, at a reduced price, because it did in fact have the covenants. It was his informal opinion, as he is neither a formal attorney or can speak legally for the State of Nevada, that it appeared that the existing owners were not living up to their part of the covenants. That generated some press at the meeting and from there it got to Palmer and then to the Chair and then to the agenda item that we have today. He knows it started from him, but he doesn't feel that it was an unfortunate thing to bring up. The covenants and whether they are living up to them, so that is a little bit of the background.

The Chair said that his concern was that they have those covenants out there and they know they've been violated, because they have not met the minimum opening requirements that are in those covenants, he thought twelve days a year. The Commission has taken no action and has not asked what their rights are. His concern was in the long term he wants to see the building preserved, repaired and opened for public use. He doesn't want to interfere with that, but they also have an obligation to maintain our covenants and continue to pursue the Commission's rights. He was not sure where to go with any of that. The Chair asked if Melissa Cleary was still on the line.

Cleary responded that she was on the line.

The Chair asked her who she represented and what the status of her representation was.

Cleary stated that she was with the Huntridge Foundation and they are a non-profit that started a little over a year ago to advocate on behalf of the Theatre, to drum up community support. Actually before the speakers panel that they had in June that Mr. Stoldal referenced, they had been looking into the covenants through SHPO. So, this is something that they were not going to make public, but they are quite aware. She was a resident of a few years right behind the Theatre and it was quite noticeable that the covenants were not being adhered to. A lot of the residents have been complaining so when the Huntridge Foundation started looking into it, rather than make it a public uproar, they were working to see what could happen, what investigation could take place and how some of that public funding could be either prorated or damages sought from the defaulting party.

The Chair asked if her foundation is the one who is trying to purchase the property from the current owner.

Cleary responded no, they are simply working in conjunction with the group. The group is actually Huntridge Revival LLC and they are a private business that formed. She believes they were incorporated in about March of this year. They recently started a crowd sourcing, crowd funding campaign to solicit community support for the Theatre and they raised just over \$200,000 and that will go towards the initial testing and all that needs to go into the Theatre. They have an agreement in place with the current owners, King George LLC, with Eli Mizrachi, who has come before this Commission previously. They have until December of this year to come up with the remaining funds to purchase the building.

The Chair asked if they purchase the building, they are not a non-profit, they are a Nevada LLC?

Cleary replied that was correct and because the foundation is a non-profit and they are pending their 501C3 status with the IRS, there have been initial discussions to possibly partner down the road. That of course is up to the investment team, the private LLC, so the status of that is to be determined. They don't know if they will be heavily involved with them, but they definitely advocate for the Theatre and the surrounding community and they would like to be involved.

The Chair agreed and felt that the Commission also advocate for the Theatre and its preservation and use. He didn't feel that is an issue at all. He did have an issue and maybe legal could address this. If a third party buys this building, the covenants will go with it to the new owner.

Chesney said yes, the covenants run with the land. They are part of the deed. The thing that was concerning him was the date of 2017, because after that they would expire. He felt that the thinking should be, if you want to preserve the building, is how to extend the covenants or make them stronger. In the long run that is probably where the thinking should be, though you do have specific remedies, which are spelled out in here. He also

mentioned that it could be privileged advice that could be spelled out in a closed meeting.

Stoldal had a couple of thoughts, one being there are covenants and based on money that has been give to folks, it seemed to him that it would be a mistake to set the precedent that the Commission is not even going to slap anyone on the hand when they violate an agreement with the people of Nevada, the State of Nevada. That said he was not sure that he could say that saying that they would not change the rules and extend the covenant to 2020 and we're going to change the rules after they've signed it. He doesn't know if legally they can go back and say 2017, we really like the building and we're going to change that to 2025.

Chesney stated that they wouldn't be changing the existing covenant. You would be getting a new one, is what he is suggesting.

Stoldal asked why they would agree to that.

Chesney replied that they had violated this one, so you could potentially use that violation as leverage to extract further concessions, because as it stands, it says the State can file suit. The purpose of the suit would be to cure the violations or obtain return of the funds. The funds in this say \$760,000. With that on the line, it might induce them to enter into a new covenant to get what the Commission wants.

Stoldal stated that he was sure glad an attorney said that and not him.

Palmer said that for the record there were two covenants, there is just the one example here. There is actually a second covenant and the total amount of the covenants combined is \$1,065,839. The first covenant was placed on it in 1997, she believed, and it was for \$300,000 and it expires next year, May 15, 2014. She did have that covenant with her, she did not include in the package.

Stoldal asked if the remaining \$700,000 was the one that expires in July of 2017.

Palmer replied that was correct.

Stoldal told the Chair that he felt pretty strong that when the State charges the Commission to give out tax payers money and they sign an agreement with these folks, that they will live up to the covenants that are in the agreement, that they really need to make sure that those covenants are in fact followed. He understands that they do not have a SHPO who has never had a large staff and it has been hard to do that. He feels for the most part they have not received any other complaints that the covenants have not been followed. He did think that they do need to take some legal action, whether it's the legal action being a sit down meeting with the current owners and have some discussion and negotiation. That said, as the Commissions legal council has advised, this is a matter that very well should be handled and qualifies for being a behind closed doors. We would hope that everything they do would be public, but there are some

exceptions to that rule. This Commission has a solid record of going above and beyond not only the record of the open meeting law, but also the spirit of the law in what they do. He would like to leave that to the Chair and legal counsel in how they should proceed with the discussion of the legal issues.

The Chair recognized that Hillerby had something to say.

Hillerby was just going to say that it is a lot of money and he was with Stoldal. They have not heard reports of other applicants not having lived up to the covenants. He had been looking at some of the recent media reports and he did not know exactly the condition of the building, but he thought he remembered reading about how many things had been taken out of the building. The CCA had paid for a sound system, a telephone system and a number of other things. As a representative of the Huntridge Foundation, he remembers when the current owner came before the Commission several years ago and talked about what they wanted to do with the building, some commercial activities and some other things, but would keep it open. It didn't sound to him that it has been well maintained. He is concerned as was Stoldal said, they had put a lot of money into it and he doesn't know if some of those resources, particularly the sound system and telephone system and other things, if any of those are still there and if they have been secured. The current owners knew when they went into it they had an obligation to take care of that property and there were these covenants. He was not sure if they've done that, but the advice of some of this if they are going to talk about it, it should be a privileged discussion. He is also aware they have the potential for a new owner group to come in, involved with a non-profit foundation who is trying to make the building available to the public again, an important part of Las Vegas as it was in the past. Hillerby wants to be mindful of that and they don't create a problem.

The Chair asked that this item was listed for discussion only and did they need to have a private meeting.

Chesney said yes, there is a provision to have what's called a non-meeting to discuss legal litigation potential and or existing with your attorney so this would pretty clearly fall into that, so they should probably schedule something. It could even be by telephone. Given the fact that the other covenant's going to expire in 2014, they should probably get something going soon. If that would be the choice and they could talk about it in the non-meeting that is closed.

The Chair stated that they needed to schedule a non-meeting. He asked if that would be scheduled by the Attorney General's Office or by SHPO?

Chesney replied that Palmer could coordinate it and just check with everybody's schedule for a convenient time and could be done by telephone and give him some direction if you want to give him any direction at all, how the Commission would like to proceed.

The Chair asked if that was ok with the other Commissioners if we have this non-meeting. He also did not want to take action that would damage the effort of these new parties who

want to maintain and bring it back to the standards required in the covenants and open it for public use.

Hillerby responded, absolutely.

Stoldal had a question for legal counsel. He knows every member of the Commission and thinks he knows that their hearts and their spirit of open meetings and that they should have complete transparency. He asked why would they have a closed meeting. Is there some legal jeopardy that they would have because of what they would be discussing or would that simply be that the potential litigant would know what they would be talking about.

Chesney replied that would essentially be it. He would envision the meeting would be a strategy session, discussing the options and the possible outcomes and they certainly wouldn't want anybody who might be on the opposite side of that to know their strategy, because again they are fighting on behalf of the State and the tax payers if they decide to fight. So they owe it to them to not show our hand, so to speak. It's the same logic that goes with any of these closed meetings. The other circumstance for a closed meeting is if you're the object of potential litigation, in other words the State is going to be sued, there again you don't want to divulge your defense strategy. In this case, our strategy would be as the plaintiff.

Stoldal said that helped him and attending these meetings over the last decade, he always leaves, even though they make a lot of people unhappy, they're not unhappy with the process and the openness of the process. He could not think of another time they had ever had a closed meeting. He still thinks he would support this.

The Chair stated that unless any Commissioner objected he would ask Palmer to work with the Attorney General's Office, finding a convenient time for about a one-hour conference call to discuss the strategies, relative to the enforcement of the covenants on the Huntridge Theatre project. All agreed, as soon as possible.

Palmer had one question. She was not familiar with this building. She had not visited it and wanted to know if there would be any investigation she needs to do before this meeting occurs, that the Commission would like to have in evidence.

Chesney stated that if they were to go through with any litigation they would definitely need some solid evidence of things that would be talked about. He thinks it would be useful to get a preliminary overall of where they haven't complied with the covenants, if it's the twelve days, if it's the alterations or the maintenance or repair or any other things. It could just be an overview. Well if they went to litigation it would have to back it up with some good facts, just for their information. That would be helpful. He said that he had driven by it last month and he had gone to it as a kid and he thought that it really looked terrible now. It had graffiti all over it.

Stoldal agreed the exterior could be cleaned up and he would recommend that at least that Palmer be able to, if it's possible, legally, funding wise, all those things, to go through and be able to give them at least a preliminary report on the sound systems and phone systems and whatever. At least some preliminary report and to visit the place and grab some photographs or something the Commission could look at.

The Chair said that he was sure that the landowner would have to authorize access to the property.

Chesney stated that he thought the Commission had the right to under the covenants to inspect the property. We can coordinate, but they can't deny it. Otherwise it would be a breach to the covenant or possible additional breach to the covenant.

Hillerby asked if that would be something Palmer could do.

Palmer replied that she could arrange that. She could arrange a tour, but it wouldn't be immediately and they would probably be looking at the end of August before she could get down there and do that. The one problem that they do have is that while they have the covenants, those are recorded and they do have the information that was acquired when a subpoena was issued to the Commission on this same project, they do have that information. What they don't have are some of funding agreements, which include the scopes of work for some of those early projects. Those dating back from 1993 to 1998 were not retained.

Chesney said that this is the kind of thing that should be talked about in the closed meeting, for instance.

The Chair agreed and asked her to make arrangements to go.

Palmer replied that she would go to Las Vegas and take photographs and document what she could and would report what she has.

9. Planning for future meetings.

The Chair asked if they wanted to set a date for future meeting now, which would be to review applications. It would be estimated in March if they follow prior pattern. He asked if any of the Commissioners had any particular problems in March.

Stoldal said he was open in March.

Deacy said she would be gone the week of the 10th through the 14th to a conference.

The Chair asked if they wanted to shoot for the week of March 24th. They normally schedule for two days. Sometimes they finish in one and sometimes they don't.

Hillerby agreed on that week.

Stoldal asked when spring break was. He said that the 24th was fine also.

The Chair stated that they would tentatively set March 24 and March 25th of 2014 for the next public meeting. He asked if that was agreeable to everyone.

Peter Barton responded just for the record and it may influence some people to come up and spend the weekend in northern Nevada. There will be a fairly substantial sesquicentennial event in Carson City on March 21st, which is the anniversary of the territorial, the signing of the Territorial Act for Nevada. It will be a huge event in Northern Nevada and he was not at liberty to describe it beyond that.

The Chair said that for people to want to come up on the 21st and go to the event they could spend a weekend in Northern Nevada, shovel snow and come to the meeting on the 24th.

Hillerby added that Washoe Valley schools spring break would be the week after that.

The Chair called for the meeting to be held on the 24th and 25th of March. He asked if anyone had anything else to add to this agenda item.

10. Future agenda items.

The Chair asked if anyone had anything to add to this agenda item.

Hillerby replied that he didn't know if it would be worth discussing or not and he knows that *Stoldal* is on the board. The Mob Museum, there is an on-going issue with property taxes. He was bringing this up because the Mob Museum, while a non-profit organization in order to get the tax credits to buy the building have run into some trouble with both the Clark County District Attorney's Office and the State Board of Equalization on whether they owe property taxes and he knows that the CCA has put a lot of money in that building.

The Chair asked if he wanted to add that as an agenda item for the next meeting.

Hillerby replied yes, at least a holding place for it should there need to be a discussion. Whether or not there would be any role for the Commission. It's unique for a non-profit museum in this state to be hit with a potentially quite a large property tax bill. To the extent that it potentially as a precedent in A. In B, it impacts the livelihood of that organization and the use of that building. He felt that it might be worth discussing.

Stoldal said that he would support it in the broader sense that other entities in non-profit in Nevada that would try to take advantage of this opportunity with the tax credit. He didn't know of any other but felt that some sort of exception needed to be created

within, and didn't know if the rule would be the same in Washoe County. He would assume that it would be if the museum was there and got this tax credit and they would have to pay property tax, which would take a big chunk out of the tax credit. If they could look at the big picture he would support that.

The Chair stated that they would add it to the agenda in their next meeting.

Hillerby pointed out that Peter Barton had commented to him that the Thunderbird Lodge at Lake Tahoe and Mr. Hillerby remembered the Lear Theatre group in one of its incarnations was and it seemed to be an anomaly that the federal requirement is that there be a for profit entity involved, which now seems to be jeopardizing their property tax status with the State and particularly with local government really hurting for property tax money and being aggressive about that. It's kind of an oddity that they have all worked so hard and put public money, both through the Commission potentially and through the tax credits at work saving the buildings and then jeopardizes its continued success by going after them for property taxes.

Stoldal wanted to invite someone from the museum or their legal council to make some sort of a presentation to them so they could all be on the same page on this.

The Chair replied that they could certainly extend an invitation. They could be notified that they were on the agenda and they could provide time for them to make a presentation if they chose to do that. They would make sure that that would happen. The Chair asked for any other future items. Hearing none he will open again for public comment.

11. Public comment (see statement in Item 2 above)

The Chair asked for any public comment who may be on this call. If they would like to make a comment this would be the appropriate time to do so. Hearing none he thanked the Commissioners and pointed out that this was not the most agreeable way to conduct the meeting but that he felt it took care of the business. He asked for a motion for adjournment.

11. Adjournment

Hillerby made the motion for adjournment. The Chair hearing a motion on the floor for adjournment, called for all those in favor. The vote was unanimous to do so at 11:35 AM.