

**Commission for Cultural Centers and Historic Preservation
December 21, 2017 10:02 a.m.
Meeting Minutes**

Teleconferenced from:

Ponderosa Conference Room
Fifth Floor, Bryan Building
901 South Stewart Street, Fifth Floor
Carson City NV 89701

1. Call to order by Chairman Robert Ostrovsky, (*the Chair*) at 10:02 am.

2. Roll Call:

Commissioners:

Robert Ostrovsky, *The Chair* (Board of Museums and History, Governor's Appointee) **Present via Phone**

Robert Stoldal, *Vice Chair* (Board of Museums and History) **Present via Phone**

Gail Rappa (Nevada Arts Council) **Present via Phone**

Patricia Olmstead **Present via Phone**

Judith Simon (State Council on Library and Literacy) **Present via Phone**

Jane Tors (Nevada Humanities) **Present via Phone**

The Chair determined that there was a quorum.

Staff Present:

Rebecca Palmer, Historic Preservation Office **Present in Carson City**

Joshua Woodbury, Senior Deputy, Attorney General's Office **Present in Carson City**

Kristen Brown, Historic Preservation Office **Present in Carson City**

Robin Reed, Historic Preservation Office **Present in Carson City**

Public Present in Carson City:

Sherry Rupert, Nevada Indian Commission

Marla McDade Williams, Nevada Indian Commission

Buck Sampson, Nevada Indian Commission

Sarena "Sari" Nichols, Nevada Indian Commission

Max Hershenow, H & K Architects

Angela Mathiesen, Department of Tourism and Cultural Affairs

3. Public comment:

The Chair asked for any public comment. He stated that if there are any members of the public that would like to make a comment this would be the appropriate time to do so. There were no comments.

4. Review of the request of the Nevada Indian Commission to extend FY16 grant (CCCHP-16-5).

The Chair asked Palmer to bring the Commission up to date on the request and what actions have been taken so far.

Palmer stated that the office had received a request to extend the deadline on September 1, 2017 from Sari Nichols of the Nevada Indian Commission (NIC) that contained a letter (now part of the supplemental materials) explaining the need for the extension and included a project change

request document with the changed grant period termination from April 8, 2018 to September 30, 2018. The letter was dated August 29 but was received in the office on September 1.

The Chair asked if the Commission funds were being comingled with the Capital Improvement Program (CIP) funds awarded last session.

Palmer stated that yes; the Commission funds were being included with funds received for the CIP awarded project but that they were not comingled. Perhaps Sherry Rupert of the NIC, who is present, might be able to enlighten the Commission.

The Chair asked *Palmer* if this request has any impact on the requirements of the bond process, if it were to cause arbitrage problems or problems with the Treasurer's office.

Palmer stated that in accord with the Treasurer's Office previous comments and the Arbitrage training that staff received recently, all General Obligation (GO) bond proceeds must be spent within 24 months of the sale of the bonds. The extension would move the termination date to September 30, 2018 and the bonds were sold on November 6, 2016 so staff would have a few days before all of the funds must be expended.

The Chair asked Sherry Rupert to address the Commission.

Rupert stated that the NIC has received Commission funding to prepare a design and construction documents for the Stewart Indian School Cultural Center (SISCC) [2014] and that that document was successfully completed. The NIC submitted a request for a CIP request and it was both successful and a high priority for the Governor with the Commission's assistance of the Chair's letter to the Governor stating that the Commission had supported the SISCC and recommending that the state do so as well. The CIP request was approved in the last legislative session, but along with that approval, the NIC included the Commission award of \$147,000 award as NIC's contribution to the project. With the CIP, the project can be completed in its entirety.

The Chair stated that term "comingle" was inaccurate, but the grant award is an integral part of the entire funding for the project.

Rupert stated that yes, the funding was critical for stabilization of the building for the CIP money to then be spent. *Rupert* asked the Chair if she could have the project architect, Hershenow, speak to the topic.

The Chair said yes.

Hershenow stated that yes; the demolition is an integral part of the project and must come before the CIP money is spent.

The Chair asked if any commissioners would like to ask questions of the architect or the grantee?

The Vice Chair stated, for the benefit of the new members, that for decades the Legislature wanted to ensure that state agencies couldn't go around the Legislature to get money for projects from the Commission but an exception was made for Stewart. The Vice Chair asked *Palmer* if there was a formal policy about no state agency allowed to apply for the funds and if so why was Stewart an exception?

Palmer stated that to the best of her knowledge the Commission did not have a policy prohibiting state agencies from applying. There is an informal policy recommending that state agencies seek funding from the CIP process. She has searched the minutes of prior meetings during her predecessor's time and could not find any particular policy statement concerning funding state agency projects.

The Vice Chair asked if other state agencies have received funding.

Palmer stated that to the best of her knowledge that no other state agencies have received funding from the Commission.

The Vice Chair stated that he was concerned about precedent set with this extension. He asked for the one sentence justification for the extension.

Palmer asked who would he like to respond.

The Chair asked if *Palmer* would respond.

Palmer stated that this was only request for an extension at this time and that the length of the extension would take it to the very last allowable time. That would mean that every request for reimbursement and every report would need to be submitted by September 30. She stated that extensions have been granted in the past and she can do some research to determine how many.

The Vice Chair stated that since the Commission was setting a precedent, there needed to be some justification for the early award of funds (roof falling in) or the extension of the grant period at the end should be an emergency. This sounds like a bureaucratic issue than a real emergency.

The Chair stated that this gets to the heart of one of the issue, when you accept CIP funding you accept the Public Works Division involvements. Most applicants are non-profits and don't work with the CIP money or with the Public Works Division and don't use state money. Working with state money certainly has an impact and unless there is coordination with Public Works and this Commission's dollars it can be difficult, he feels her pain and other state agencies applying in the future.

The Vice Chair asked Rupert about her statement that the "project will be complete". Does this mean that the project will be complete and that the NIC will not be going back to the Legislature or this Commission in the future?

Rupert state that the CIP was for the Cultural Center and the Welcome Center that are Buildings 1 and 2 at Stewart, the funds will pay to finish the building and have them open. She doesn't see that NIC will come forward with any future requests of this Commission for these two buildings.

The Vice Chair stated that this left a whole campus full of buildings.

The Chair asked for any other comments from commissioners.

Rappa stated that she didn't feel that the question asking for one sentence to describe why the extension is being requested was answered.

Rupert stated that she would like to answer the question. She stated that when there is a CIP it takes quite a lot of time to move forward. You have to go out to bid and have the bids reviewed, then go to the Board of Examiners to have the contract approved, then to the Interim Finance Committee to get approval to accept the funds. It looks like they will be going to the February Board of Finance meeting and construction will begin on these two buildings in May. She stated that the commissioners had a copy of the timetable for construction and it was planned to be completed by January 2019. Seismic retrofit and demolition will be the first activities accomplished and she doesn't see any reason why the construction work funded by the commission won't be completed by September 30.

The Chair asked if there were any questions from the members. He also noted that while they will vote on this request today, the issue of funding state agencies (not just Stewart) needs to be discussed at future meeting where there can be a fuller discussion of the policy. The commission should decide how those requests will be treated in future grant cycles. Is this agreeable to the commissioners, including the Vice Chair?

DAG Woodbury stated that a brief discussion was okay but any further discussion would not be acceptable with in the Open Meeting Law.

The Chair stated that he understood and is asking that it be put on a future agenda. He asked for a motion on the agency item.

The Vice Chair started to make the motion and then stated that he is certain that Palmer would have administrative procedures in place to ensure that they wouldn't wait until September 30 and then find out that the NIC hadn't spent all of the money.

***The Vice Chair* made the motion to extend the grant (CCCHP-16-5) per the request made by the NIC.**

***Simon* seconded the motion.**

The Chair asked if any commissioners would like to make comment on the motion. The Chair asked if any members of the public would like to make comment on the motion. There were no comments. The Chair asked for a vote.

Motion passed unanimously.

The Chair thanked Rupert for coming and explaining this request to the Commission.

Rupert thanked the Commission for being the first to step forward and support the project and Stewart. The Commission's support was invaluable and got the momentum going.

The Vice Chair stated that if the Stewart Campus wasn't on the top of the list of Nevada's treasures is either second or third of such treasures.

5. Discussion and Scheduling of the Grant Hearing for CCCHP grants for fiscal years 2017 and 2018.

The Chair asked Palmer to bring the commission up to date on her recommendations for meeting dates.

Palmer stated that the office has received sixteen (16) applications for 2017-2018, they have made scans and copies of all of the applications and sent those scans to the entire sister state agencies who are reviewing them for CCCHP. The State Librarian, the Nevada Arts Council, the Humanities, and Museums have received copies. She has requested that any comments on the applications be sent to her by March 1. Given the budget process and the number of applications, she extended the review time a little bit longer. March 12 she will be sending out comments to the commissioners.

The Chair asked if Palmer was looking for an April or May meeting or something earlier?

Palmer stated that she was going to suggest an April or May meeting.

The Chair agreed and it was just a question of commissioner scheduling. He stated the 16 applications was actually fewer than received in other cycles and he asked Palmer if she felt that the hearing could be completed in one day or in two days as has been undertaken in other years.

Palmer stated that she felt the meeting could be completed in a single day. Based on the prior grant round with 11 applications and business was concluded rather early in the day.

The Chair stated that in some grant rounds there have been up to 30 applications and that took two days to give all of the applicant's time to present, score applications, and award funding. The Chair suggested the date of Thursday, April 12 only because if the meeting is held in Carson City people can travel and avoid the Friday rush at the airport. Is willing to discuss other dates.

Vice Chair will be out of the country starting the week of April 14 so the 12th would be a little tight. He asked where the next Board of Museums and History Meeting was going to be?

Rappa stated that Spring Break for Elko County was the last week in March. So March 29 would be good for her.

The Chair stated that the Museum and History Board meeting is scheduled for March 12 which is a Monday. He asked if the Vice Chair would be back in town on the 29th or would he like to push it into the first week in April?

The Vice Chair stated that he leaves April 14 and is back in the country on April 30.

The Chair suggested the first week in April. Tuesday 3rd or Thursday 5th.

Olmstead stated that the Washoe County break is the last week in March and first week in April and she is out of town those two weeks. She is back in town on April 9.

The Chair suggested April 12.

Simon stated that that was fine with her.

Tors stated that that works for her.

Rappa stated that that works for her.

The Chair asked if there were any staff issues on April 12?

Palmer stated that April 12 will work for staff.

The Chair stated that April 12 in Carson City is good. He asked Palmer if she could find an appropriate venue for the applicants and the Commission. He asked if a 9:00am start time would be possible to ensure that they will be done in the afternoon. The Chair asked if there was any public comment on the day of April 12.

Simon stated that 9:00am was a good start time for her, but will it work for those traveling from Las Vegas?

The Chair stated that if they don't do that they are looking at a 10:00 or 11:00am start time. They will watch the airline schedules. He stated that if the Commission sets the date and city then he will work with Palmer to pick an appropriate start time based on the airline schedules. He asked for a motion to set the date of April 12, 2018 in Carson City for the grant hearing.

***Simon* made the motion to set the date of April 12, 2018 in Carson City to hold a meeting for the purposes of hearing the grant applications for the FY17-18 grant cycle.**

***Olmstead* seconded the motion.**

***The Chair* asked if any commissioners would like to make comment on the motion. The Chair asked if any members of the public would like to make comment on the motion. There were no comments. The Chair asked for a vote.**

Motion passed unanimously.

The Chair stated that Palmer should notify the applicants of the date and that he would work with Palmer to set a time based on the airline schedules.

6. Discussion of concurrent versus consecutive covenants for future CCCHP grants after the FY17-18 cycle and a report on progress of reviewing all active covenants for CCCHP/CCA.

Palmer stated that the supplemental materials included a list of current covenants but it is a draft as it is an extensive set of records. Search all available records from 1993. Master list contains nine covenants that the office has no record of recording. There were nine covenants where the office could not find termination dates. Some of the covenants seem to have multiple grant years combined into a single covenant and some grant years have no covenants. She hopes to have the list complete by the next meeting and will have started contacting the covenant holders. She stated that another document was the list of review completed by staff and how many requests for permission they have received along with the blank request form. Palmer asked the Commission and the DAG Woodbury what they would like staff to do for the nine covenants that staff can find no evidence were recorded? Does staff go back to the grantees and request the evidence of recording? What happens if staff receives a response that the covenants were not recorded? Should staff ask for the covenants to be recorded now?

The Chair asked whose responsibility was it to make the recordings? Was it the Commission or the grantee?

Palmer stated that according to the current application and the policy that was in place, it was the responsibility of grantee's responsibility. Either the grantee was the property owner and they would record the covenant against the deed or they would notify the property owner that they had recorded a covenant against the deed.

The Chair stated that at some time in the past staff either didn't follow up with grantees or didn't have clear policy direction that covenant recording was expected by the Commission. Did staff inform the grantees that recording covenants was their responsibility?

Palmer stated that from staff research it appears that the office did notify grantees that recording the covenant was their responsibility. She can't determine why the office didn't ensure that the recording was done.

The Chair asked DAG Woodbury if the Commission has the authority to make the recordings without the grantee's or property owner's approval?

DAG Woodbury stated that he hadn't yet read the covenants or the grant manual but if it is the grantee is the same property owner originally awarded funds and there was an obligation to record.

Asking for the documents showing proof of recording is fine. However, there may be problems if there was a different landowner now. Forcing them to record the documents would be tricky. However, even those individuals should be asked to produce the evidence of recording.

Rappa asked how many of those now have different ownership?

Palmer stated that to the best of her knowledge, of those missing records are still under the same ownership (such as the Boulder Dam Hotel).

The Vice Chair stated that he noticed there is a consistency issue. Las Vegas Valley Water District, Overton Gym, Boulder Dam Hotel, and that these responsible parties. Does the office have signed agreements for the awards? Do they sign something that states they will record the documents? Is it with the County?

Palmer stated that yes, it would be with the County and the covenants are attached to the deed and travels with the deed no matter who purchases the property. This makes the current property owner aware of the covenants when they purchase the property. With each of the missing documents, the office has signed funding agreements or covenants. She stated that if the Commission wishes she can start by asking the current property owners to produce the recorded covenants or evidence of recording for our records. It is possible that the office simply didn't receive it.

The Vice Chair stated that starting for asking for the documents is a good administrative response as organizations such as the Las Vegas Water District, Boulder Dam Hotel, and Overton Gym might be future applicants for grant funding and that they would want to have their records cleaned up. That is a great first step.

Rappa noted that Overton Gym for example the covenant that is missing was one year and that they received funding in a later grant round so it is clearly some paperwork glitch that fell through the cracks.

Palmer stated that she couldn't speak to the state of the records or if the missing covenant was recorded or not.

The Chair asked if the Vice Chair's recommendation is that staff continue to work with grantees and current owners to determine if there are additional records that they can provide to the Commission and at the same time putting them on notice that recording the covenants was a requirement?

The Vice Chair stated that yes that is his recommendation, but that since this is an administrative action, he didn't think a motion was necessary.

The Chair asked if any commissioner felt any differently? If not, the Commission will just give instructions to staff to continue contacting property owners. He asked if that was acceptable to everyone? The commissioners were heard to say yes. He stated that they would move on.

The Vice Chair asked about the issue of concurrent versus consecutive covenants and the longer National Park Service covenants length. For example, on the Brewery Arts Center there are covenants that expire on 2019, 2020, and then another 1 in 2058. Do those covenants impact the grant or do they impact the entire structure?

Palmer stated that the covenant is on the entire property but she pointed out that with each subsequent grant award a new covenant was issued. However, staff uses the cumulative total award that the building has received to determine the length of each covenant. The more money the building received, the longer the covenant becomes. However, each grant has a new covenant so if there were eight grants, there would be eight covenants on the deed.

The Vice Chair stated that if there were six grants, there would be six covenants prepared and is the current policy that staff would continue to increase the length of the covenant to 25 or 50 years?

Palmer stated that yes that is the current policy. She has required a covenant to be prepared for each grant award to protect the actual dollars expended in that award. This issue came up for a certain property in Las Vegas where there was only one covenant, but the cumulative total award was close to \$2 million dollars.

The Vice Chair asked if *Palmer* felt that staff had cleaned up most of the covenants with the exception of those that had not be recorded?

Palmer stated that yes, but that what she didn't know is if her decision to require a covenant for every award for every year still acceptable? Alternatively, would the Commission prefer, as was suggested by the Vice Chair in the last meeting, that the staff prepare consecutive covenants?

The Vice Chair stated that the issue was really the length of the covenants. Prior to his time on the Commission, did the Commission increase the length of the covenants? As this issue has come up recently. Does the National Park Service have covenants based on the amount of the award?

Palmer stated that yes, the Commission did do that and that three things triggered the covenant preparation. One, the awarding of funding. Two, the cumulative amount of grant funds awarded over the entire life of the Commission. Three, it appears that a covenant was prepared for multiple awards in the past.

Rappa asked if it was clear to the applicants that when they receive funding there will be a new covenant date or do they think they will only have a covenant for the current application?

Palmer stated that staff makes it clear that a new covenant will be issued for the property for the amount of the award and the length is determined by the cumulative amounts. Is the Commission asking staff to, at the time of a new funding agreement, cancel all prior covenants and replace it with a new covenant? That would be a consecutive covenant. At each new award, all prior covenants would be cancelled and the new covenant put in its place.

Rappa asked if that wouldn't be the cleanest way of approaching it?

Palmer stated that from an administrative perspective, it would be cleaner, but she didn't know if from a legal perspective that would be possible.

The Vice Chair asked, in accord with Item #6 on the agenda concurrent versus consecutive covenants, from a staff perspective that would be the most effective method of 1) protecting the building and 2) protecting the state's dollar investment?

Palmer stated that from an administrative perspective, the current process works quite well. There may be multiple covenants on a single property but each one has a different length of time and each one recognizes the amount of money awarded to the property. The problem with the owner in Las Vegas, a decision made by staff not to create covenants for certain types of awards meant that the State could not then seek reimbursement for that grant in the future.

Simon stated that it might be advisable in this case to seek a formal legal opinion.

Palmer stated that she would officially request that opinion. Her thoughts about consecutive the approach might mean that new covenants would be prepared and recognize the cumulative total award that the building received otherwise the State would lose its opportunity to recover those costs if they violated the covenants.

The Chair directed *Palmer* to work with the AG's office to get guidance on consecutive covenants and that the Commission wasn't able to determine policy today. That is something that would require the discussion of legal barriers of concern to the State and have that advice from the AG's office at a future meeting of the Commission. Is that agreeable to the Commission? He asked if that was agreeable to the Vice Chair?

There was agreement heard from the commissioners.

The Vice Chair stated that it was a good plan.

The Chair directed staff to work with the Attorney General's office to see if there were any legal concerns and if they wanted to change policy they can do it at the next meeting, it can be agendized.

7. Discussion of alternative documentation for future applications.

The Chair asked Palmer if applicants were sending in information in ways that the application didn't anticipate?

Palmer stated that yes, there were two applicants that asked if they could send drone footage of their properties. Because there wasn't a policy concerning this documentation, she had to decline their request to submit this evidence. In addition, another party who asked if they could send in video of the interior of their property. Since the application states that everything must be in hard copy, she had to decline that request as well. She wanted to make the Commission aware of these requests, consider this information for the next grant cycle, and if they decided to accept this type of information how would it become part of the public record?

Simon stated that there isn't any substitute for an on-site inspection and if the applicants want to provide this information that it would give the Commission a leg up on determining what is happening at these sites.

Rappa stated that she thought it was a great idea if they wanted to send in this information if they have the ability to do this, but access by the public and in a public meeting how would display work?

Palmer stated that the Commissioners will receive the information in hard copy, but having the Commission view that material at the hearing would be different.

Rappa stated that as long as staff can post the information on the website and that the public didn't need specific devices, that would be fine.

The Chair stated that he like more information is good, as long as Open Meeting Law requirements were met. The Commission can't be the only organization dealing with this kind of materials and that they might be guidance already available. He asked if the commissioners had any comments.

The Vice Chair stated that photographs helped for reviewing applications as he isn't able to get to Tuscarora, for example, on a regular basis. However, there should be still images to look at during the hearing. He would be concerned about the production of video pitch reels, but the Commission can deal with that. He also noted that drone footage can be used to get excellent aerial shots of buildings or towns, but this won't be the exclusion of hard copies, correct?

Palmer stated that the three instances for this grant cycle, no they were suggesting that the information would be a supplement to the hard copy.

The Vice Chair stated that as a supplement that would be acceptable.

***The Chair* asked the Vice Chair if he would like to make a motion to permit applicants to submit this alternative documentation, such as drone footage, video images, and like material as supplemental to the hard copy in future applications?**

***The Vice Chair* said yes, that is the exact wording of the motion he would like to make.**

***Rappa* seconded the motion.**

***The Chair* asked if any commissioners or member of the public would like to make further comment on the motion.**

Rupert stated that the Nevada Arts Council (NAC) has several different grant programs and they allow upload of video and photographs and that perhaps this might be a good source of information for Palmer. Perhaps Palmer should talk to Mr. Manfredi, the new administrator for the NAC, about how they deal with that type of media for their grant programs and how they make it available to the public.

The Chair stated that this was an excellent suggestion.

Brown stated that perhaps the Commission might want to specify a maximum file size or length especially if they might be viewed at the hearing or uploaded to the website if the public might want to stream them.

The Chair stated that this was also a good recommendation.

The Vice Chair stated that he would like to amend his motion to add 3 minutes in length for supplemental information.

***The Chair* agreed and asked if Rappa would agree to the amendment to the motion.**

***Rappa* stated that yes she would agree to that change.**

***The Chair* asked for a vote.**

Motion passed unanimously.

The Chair stated that Palmer had new material to consider for the next grant cycle and if she had problems with public record law she was to notify the Commission and they could consider the issue at the next hearing. Otherwise, proceed as the motion requires.

8. Discussion of Commissioner Stoldal, Commissioner Simon, and Historic Preservation staff visit to the Huntridge Theater, October 11, 2017.

The Chair asked if Palmer had any comment or should they just go to the commissioners for a report.

Palmer stated that she didn't have any comment.

The Vice Chair stated that this was the second visit and the date was the date that the Theater opened in 1942 or 1943. The second visit the facility looked better cosmetically and while the place had been a storage facility and there was a lot of furniture in 2016 and then the plumbing was stolen. During the recent visit, the exterior had been painted and fixed up and security had been added to address the homeless issue. According to the owner, the intrusions by the homeless had been all but eliminated. The interior had been cleaned and the furniture removed. Individual chairs were on the floor as if there was going to be a presentation. The bathroom was, according to the owner, still undergoing work. He only toured the first floor and the exterior but it looked better. Primarily cleaned up cosmetically. The owner told him that he has received many offers to buy but that these individuals think it is a fire sale and that they are offering him pennies on the dollar. The Vice Chair asked the owner if the building was open to the public and he said no. The Vice Chair stated that according to the agreement that the Commission signed with him it needed to be open to the public and that has not been done. The Vice Chair stated that he didn't believe that the property owner was in compliance with the covenants but that he would leave that to staff and the AG's office. He asked if staff had received any response to the letter sent on December 5, 2017 letter [included in supplemental materials for the meeting]?

Palmer stated that the only response that staff has received is that the property owner, Eli Mizrachi, has decided not to open the property to the public for 2017. That was the last communication from owner. Palmer stated that the property owner told her that although he had put a public notice in the paper stating that the Theater would be open and the dates and times of its opening, he was going to put a sign on the door stating that it was not open and that he was going to put the office's phone number on the sign to explain why it was not going to be open. Palmer stated that staff had not received any calls so she didn't know if such a sign had been placed on the property.

The Vice Chair asked if Palmer had been in contact with the City of Las Vegas and if they had planned to do anything?

Palmer stated that the office hadn't received any communication from the City of Las Vegas nor did she know if they had issued a Certificate of Occupancy for the building.

The Vice Chair asked DAG Woodbury if a formal request to the City of Las Vegas should be sent asking about the owner's request for a certificate of occupancy and if they had anything in their files.

DAG Woodbury stated that property owner had indicated that he would be seeking a certificate of occupancy in the coming year.

The Chair stated that not opening the building was a clear violation of the covenants and that this failure would result in no reduction of the settlement amount for 2017, is that correct?

DAG Woodbury stated that yes, staff had sent a letter to the owner that because he hadn't opened the building or provided the office with a certificate of occupancy and hadn't completed repairs he would not receive a reduction in the settlement amount for 2017.

Simon stated that she visited the building on October 11 with Kristen Brown of the SHPO. She thought that the building looked a tiny bit better than it did in 2016. She thought that it was too dangerous for the public to enter with the broken tiles and ramps. On second floor, it was difficult to assess the electrical work from a layperson's perspective. Certainly, some electrical work had occurred, but if it was up to code was not possible to assess.

The Chair asked about inspections going into 2018?

Palmer stated that with the advice of DAG Woodbury, she has reached out to the owner to set a date for the first quarter inspection. Palmer sent an email the owner with suggested dates but she heard nothing back from the owner. Palmer planned to prepare a letter, with DAG Woodbury's assistance, setting a date and time to conduct an inspection and providing the owner with 30 days notice per the settlement. Palmer was planning to set the inspection on February 9, 2018 at 2:00pm. Palmer intended to provide the owner with the date and time and require the owner to make the building open for inspection since SHPO was initiating the inspection. At that point, staff would then determine if a Certificate of Compliance would be issued for the property.

The Chair asked if this was consistent with the terms of the Settlement Agreement?

Palmer stated that yes, it was.

The Chair asked if the penalty for not meeting the terms of the Settlement Agreement for the year would be that the property owner would not receive a reduction in the settlement amount to the State, is that correct?

Palmer stated that it was correct, but that DAG Woodbury was in the room.

DAG Woodbury stated that failure to adhere to the terms of the covenants and settlement would mean that for the year, the property owner would not be eligible for a reduction in the settlement. However, since this was a contract the State could seek a remedy through the courts for a breach of contract if they wanted. Immediate remedy is not applying the yearly reduction.

Simon asked DAG Woodbury that the original amount of the lien would remain intact at this point, correct?

DAG Woodbury asked if there have been any years where a request for reduction in the amount had been granted?

Palmer stated no there hadn't been any reductions yet.

DAG Woodbury stated that in that case, yes the original amount of the settlement would be intact.

The Chair asked if there were any questions about the Theater?

The Vice Chair stated that he felt that the covenants allow him to wait until the very last year and fix the Theater and entire judgment would be erased.

DAG Woodbury stated that this may be the case. He was unsure if there had been reductions. The owner has some desire to open the Theater. The owner has expressed a desire to be in compliance and receive a reduction.

Simon stated that she spoke with the owner and while he may have a desire to open the building but that the owner might not have the capacity to open the building.

The Chair stated that the property owner has the right to ask for more funds if he wishes and that the Commission would consider the request.

Simon stated that she told him that at the visit.

The Chair stated that he didn't see a need for the Commission to take any action at this time. He asked if any commissioners felt that action was needed?

The Vice Chair stated that Palmer's suggestion of sending a letter proposing inspection on February 9, 2018 was a good one.

Simon asked if a report of the results of the inspection could be reported at the April meeting?

The Chair asked staff to add that to the agenda for the April meeting. He asked if there were any commissioners or members of the public who would like to make comment on this agenda item. No comment was heard.

9. Public Comment.

The Chair asked if there was anyone who would like to make any public comment. No comments were heard. He stated that he would take a motion to adjourn the meeting

***The Vice Chair* made a motion to adjourn the meeting.**

***The Chair* asked for a vote.**

Motion passed unanimously. The meeting was adjourned at 11:28am.

