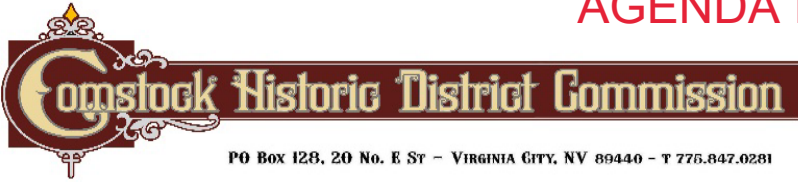


AGENDA ITEM 6



PO Box 128, 20 No. E St - VIRGINIA CITY, NV 89440 - T 775.847.0281

State of Nevada
Department of Conservation and Natural Resources
Joe Lombardo, *Governor*
James A. Settelmeyer, *Director*
Rebecca Palmer, *Administrator*
Joseph Curtis, *Chair*

MINUTES OF THE COMSTOCK HISTORIC DISTRICT COMMISSION

DATE: Tuesday, April 2, 2024

DRAFT

PLACE: Comstock Historic District Commission Office, 20 N. E Street, Virginia City, Nevada

WORKSHOP MEETING: 4:30 PM

Gregory Erny, project architect for the Chollar Mansion rehabilitation, presented historic photographs, current condition photographs, and proposed architectural drawings. The building owner proposes to extend the east-facing sections of balcony by three feet, for a total balcony width of nine feet instead of six. In addition, the owner proposes to redesign and rebuild the balcony balustrades to meet code. CHDC staff and Commissioners discussed the proposed changes and whether they do or do not meet the *Secretary of the Interior's Standards for Rehabilitation* and the district design guidelines. Alternative designs were also discussed. The owner and architect intend to submit either the presented plans or revised plans for inclusion on the May 7, 2024 CHDC meeting agenda.

REGULAR MEETING TIME: 5:00 PM

CALL TO ORDER: 5:08 PM

PLEDGE OF ALLEGIANCE

COMMISSIONER ROLL CALL: Quorum achieved

Calvin Dillon – present
Tammy Hendrix – present
Julie Workman –
Clay Mitchell – present
John Cassinelli – present
Joe Curtis – present
Nancy Cleaves – present
Mercedes de la Garza – **absent**
(Deputy Attorney General Nicole N. Ting also present)

AGENDA ITEM 3, APPROVAL OF APRIL 2, 2024 AGENDA (FOR POSSIBLE ACTION):

Calvin Dillon moved to approve the April 2, 2024 agenda as written, and John Cassinelli seconded the motion. A vote was taken and the April 2, 2024 agenda was unanimously approved.

PUBLIC COMMENT, AGENDA ITEM 4 (Comment limited to 3 minutes per speaker, no action will be taken until it is properly agendaized): None

ADMINISTRATIVE ITEMS, AGENDA ITEM 5:

a. Chair's Report – Chair Joe Curtis reiterated his concern over several unauthorized shipping containers, and with people residing in motorhomes and trailers.

b. Staff Report – Comstock Preservation and History Officer Kristen Brown referred the Commissioners to her staff report that was sent to them along with the meeting materials. No other items to report.

c. Commissioner Comments – Nancy Cleaves noted the collection of sheds behind Donovan Mill and the shed near C Street and Flowery in Virginia City. Kristen said that the shed along Flowery was approved by past staff and has a COA. No COA has been located for the sheds near Donovan yet due to the state of the file drawers at the office, and the Comstock Foundation non-profit was confirmed to not be associated with the sheds. More research is needed, and it may need to wait until a temp can be hired to address the filing system deficiency. Kristen did inspect the sheds recently and they seem to meet our design guidelines. If they are in violation, they will be addressed at the same time as other district violations. Clay Mitchell noted that he wasn't aware the Sutro Tunnel is within the district boundaries, and asked how far south past the Sutro buildings the boundary extends. Kristen explained the boundary description, and how we do know where the line is at the southern boundary there, and that it does overlap with the proposed subdivision, However, what isn't clear is how far the boundary extends around the Sutro buildings in the other directions.

d. Certificate of Appropriateness Application Form Revision – Although the CHDC previously decided that this can be revised administratively and does not require an agenda item, Kristen submitted the revised version to the CHDC for their feedback and suggestions. The form was revised to include a "submission checklist" based on CHDC suggestions at CHDC meetings in 2023. Clay Mitchell suggested making the written description required, and rewording to say, "Please indicate which of the following you have submitted" instead of "Please indicate if you have submitted any of the following."

e. Correspondence – None.

f. Election of Officers (FOR POSSIBLE ACTION) – Joe Curtis asked if we were electing all officers. Kristen noted that based on her research, the CHDC has not elected a Secretary or Treasurer for many years, and that in the proposed revisions to NAC 384, those positions have been eliminated. Kristen asked DAG Nicole Ting if we are required to elect those positions, and the DAG replied saying that the NAC describes the duties for those two positions should we decide to elect them. Joe Curtis noted that we have no need for those positions, as the CHDC doesn't have a specific budget for a Treasurer to deal with and that staff does the meeting minutes. DAG Nicole Ting acknowledges that NAC is a little vague and that it does list the positions, so she agreed with several Commissioners who suggested that if the CHDC does not wish to elect those positions, then the Commissioners would simply not nominate anyone for those.

Clay Mitchell moved to nominate Joe Curtis as CHDC Chair, and Tammy Hendrix seconded the motion. A vote was taken and the motion passed unanimously.

Joe Curtis moved to nominate Clay Mitchell as CHDC Vice Chair, and Calvin Dillon seconded the motion. A vote was taken and the motion passed unanimously.

Joe Curtis called for nominations for the position of Secretary. No nominations were given and therefore the CHDC was not able to nominate a Secretary.

Joe Curtis called for nominations for the position of Treasurer. No nominations were given. No nominations were given and therefore the CHDC was not able to nominate a Treasurer.

AGENDA ITEM 6, APPROVAL OF MINUTES FROM NOVEMBER 7, 2023 MEETING (FOR POSSIBLE ACTION):

Clay Mitchell asked DAG Nicole Ting if Commissioners may vote to approve minutes for a meeting that they did not attend. DAG Ting said it is standard practice to recuse oneself in that instance. Nancy Cleaves moved to approve the November 7, 2023 minutes as written. John Cassinelli seconded the motion. A vote was taken and the motion passed unanimously with Clay Mitchell recusing himself.

AGENDA ITEM 7, GREENLINK WEST TRANSMISSION LINE UPDATE (FOR DISCUSSION ONLY):

This item was continued from the June 12, 2023 CHDC meeting. Joe Curtis asked if this is the same transmission line that was first discussed eight or nine years ago. Storey County Planning Manager Kathy Canfield said no, she does not believe so. Kristen invited the BLM to attend this meeting, but they were not able to. In the staff report that the Commissioners received in advance of the meeting, Kristen included a summary of the letters sent to the Bureau of Land Management, and the agency's various replies and submissions. Kristen summarized the letters, BLM responses, and BLM reports again for the group during the meeting. The project's Area of Potential Effect includes both the DAPE (direct) and VAPE (visual) APE boundaries. The DAPE is not within the CHDC boundaries, but the VAPE does overlap the northern portion of our boundaries, at the Highlands.

Kathy Canfield asked if the BLM surveyed private property, and Kristen said no, the BLM submission stated that they surveyed only what they had access to. Kathy noted that some of the County's concerns relate to resources found on adjacent private property. Clay Mitchell commented that he feels the CHDC has done our part as the Commission for the historic district, and that the County may have more due diligence to perform. Joe Curtis agreed, and said that we made them aware of our concerns. Nancy Cleaves agreed.

Public comment – None.

AGENDA ITEM 8, SEPTEMBER MEETING DATE CHANGE (FOR POSSIBLE ACTION):

Joe Curtis summarized the recommendation to change the September 2024 meeting date to Thursday, September 5 or Tuesday, September 10, 2024, since the first Tuesday of the month would be the day after a holiday weekend. Kristen noted that the change was proposed primarily due to the public comment period with the required mailings, postings, and materially affected property owner notifications, to give people ample time to comment and ask questions. Several Commissioners spoke up to indicate their preference between the two proposed dates. Kristen shared the new website feature that lists the submission due dates in advance of each meeting. While looking at the website, Commissioners noted that their appointment terms will expire soon and will need reappointment.

Public comment – None.

Motion – Clay Mitchell made a motion to move the September 2024 meeting to Tuesday, September 10, 2024. Nancy Cleaves seconded the motion. A vote was taken and the motion passed unanimously.

AGENDA ITEM 9, DISTRICT VIOLATIONS (FOR POSSIBLE ACTION):

This item is a continuation from the August 2023 and September 2023 CHDC meetings, when Commissioners expressed their desire to address district violations such as unauthorized shipping containers. The discussion centered around possible ways to begin addressing the violations and whether the CHDC should establish a subcommittee pursuant to NRS 384.090. Kristen summarized the October 2023 “closed” meeting with the Attorney General’s office, in which the CHDC learned that they may “direct” staff to begin this process. Kristen then reminded Commissioners of the content of her staff notes, which described her preferred process for addressing violations at all once in a systematic manner so that the process is as transparent as possible.

Julie Workman noted that this has been discussed at previous meetings and that other Commissioners have shared their desire to address shipping containers and trailers, and that because of this, her preference is to address those first versus addressing all violations at once district-wide. Kristen disagreed with this approach and stated that she felt strongly that this should not be done piecemeal, but should be done as fairly as possible, with no one in the district feeling singled out. Kristen feels that we should not begin the process until we know what issues there are, and the only way to know that is to take a systematic inventory of violations first, then evaluate how to proceed. If we end up only having a handful of violations, then we can address them all at once and it will be the most efficient. If we end up with a great number, then we can decide on a phased approach to address certain violation types in order of preference.

Joe Curtis said that he does not want all of the work for this effort to fall on Kristen only, and that he believes forming a subcommittee would be appropriate. DAG Nicole Ting explained that subcommittees are subject to all Open Meeting Law requirements, and that if a subcommittee was walking the streets they would need to post that in advance since it would be akin to a meeting. The CHDC’s regulations in particular specify that we can either form a subcommittee with the power of the full Commission, or we can form a subcommittee that is only advisory in nature. Joe Curtis said that he likes the fact that there can be a subcommittee with power of its own, to avoid unnecessary bureaucracy. He prefers that the subcommittee have power to act and take some pressure off of Kristen. Kristen stated that she liked the very public OML requirements of a subcommittee since her goal is for this effort to be as transparent as possible. Kristen asked DAG Nicole Ting if instead of a subcommittee, a “non-quorum” of staff and one Commissioner to assist during the survey effort. DAG Ting replied that there isn’t a definition, there is only case law and reasonable interpretation; therefore, if Kristen works with various Commissioners in that manner, even one at a time, it may constitute a “walking meeting.” DAG Ting therefore does not recommend that approach.

Joe Curtis noted that since this is a small community, the observations about violations should be objective and should relate to the guidelines. Kristen agreed that we need to be tying our approach to the guidelines and statutes, and should also work closely with both Counties in a joint effort as discussed in the past. John Cassinelli noted that the CHDC has the ability to hire outside inspectors and asked if there was a budget for that since it would be the most efficient approach. Kristen said our budget is very small and she does not think so, but will confirm.

Clay Mitchell noted out that since the NRS section prohibiting “placing or establishing” trailers, mobile homes, etc. is a separate section, that could be a good way to approach that particular set of violations first while remaining as fair as possible. It would allow us to not need to tackle the more minor violations at the same time. Kristen agreed but pointed out that we won’t be going after anything that is truly minor, as we don’t have the staffing levels to allow that. We would primarily tackle the trailer issues, chain link fences, and new construction that occurred without a COA. Kristen does not expect those to be present in large numbers. Clay mentioned our ability to “deputize” a County inspector to assist us with the effort. Kristen said that if that doesn’t work out, we can at least coordinate with the Counties to be sending our letters out at the same time they send their nuisance ordinance letters for the same violation.

Joe Curtis asked the group if there are any volunteers to be part of subcommittees to assist Kristen with the effort. Nancy Cleaves said that she agreed with Kristen, that we probably won’t find a lot of violations, and that it is a good idea to form a subcommittee. Calvin Dillon asked how it would work, and Kristen said that we would just select a day to meet, and do our simple postings the required three days in advance. Joe asked again who would be interested in serving on a subcommittee. Calvin Dillon volunteered. Nancy Cleaves volunteered to help with Gold Hill. Kristen noted that the benefit of a subcommittee is that the Commission can feel confident knowing that these violations aren’t just Kristen’s opinion, they are the opinion of the CHDC as well, and that the effort is driven by this Commission. Kristen also mentioned the example of Julie Workman’s extensive knowledge of Dayton and its buildings and said that’s another good reason for the subcommittee, to be able to ask longtime residents if a particular building has been there for years or is new. Joe Curtis asked Julie if she would be willing to participate in that manner and Julie said no, she won’t be a part of this and will be voting no on this effort.

Joe stated that his concern is that we all complain about things but then we also need to be willing to help, that this effort is something we need to do and need to address. He wondered aloud if there is even a point to having this Commission. Julie Workman noted that in the past, the Commissioners were always willing to help and have been happy to point out violations in their districts and that Kristen could come down and tour Dayton with her any time. Kristen reminded the group that during the “closed” meeting with the AG’s office in October, they were very clear that this group must “direct” staff how and when to begin the process, and that to date, she has never been directed to do anything – there has never been a motion and a vote. Kristen has been asking for help and is now asking for that direction that is required. If the Commission does not want her to proceed with this effort, that is fine. If they do want her to proceed but aren’t willing to help, that is fine too. In that case they can direct her to do the work on her own, with the understanding that it will take longer that way. Joe Curtis says that the CHDC needs to go ahead and direct her to begin. Nancy Cleaves stated that she likes the idea of transparency and would be willing to join Calvin Dillon on a formal subcommittee. She feels that it is important for the Commissioners to have a presence in the communities. John Cassinelli stated that he is not opposed to the idea and agrees something needs to be done.

Several Commissioners expressed concern about the definition of the “walking meeting” that DAG Nicole Ting warned us to avoid. If only two Commissioners ride along with Kristen to help her, they don’t think that sounds like a quorum. DAG Ting explained that if we’re conducting a defined effort where each Commissioner rides with Kristen each day or each week to discuss and work on this same goal, that could indeed be seen as violating OML. However, if one Commissioner happens to help once, then another happens to help six months later, that probably would not violate OML. DAG Ting also

noted that if two Commissioners ride with Kristen on a pre-determined day to accomplish a pre-determined task, that could be seen as a subcommittee meeting, which could violate OML if that “meeting” wasn’t posted appropriately. Even walking down a street discussing whether something is a district violation or not is considered a meeting with Commissioner deliberation.

Clay Mitchell said that if the subcommittee was only advisory in nature, we might not run into as many problems. Kristen said that if we did establish a subcommittee with power, that would be helpful. In that case she could go and photograph the violations by herself to avoid needing to post that as a meeting, then come back to the subcommittee in a formal meeting and go through the photos to get the group’s concurrence on if each was a violation or not. Kristen feels it is important for those decisions to not come only from her, as it wouldn’t look good to the community – the Commissioners are appointed to this Commission because they are members of this community and not just some outside staff person who works for the State and comes in telling everyone what to do. John Cassinelli said he believes that would be the best approach – to have Kristen compile the data herself then the subcommittee deliberates it and makes the decisions.

Clay referred back to the agenda item and reminded the group that the task is to decide next steps. Nancy Cleaves said that she sees this proposed effort as a good form of outreach, an opportunity to educate the residents while sending out word that we will be conducting this effort. Calvin Dillon asked about “grandfathered” things that might have been there for decades. Kristen said that if something pre-dates NRS 384, then it would not be a violation, and that for other cases the subcommittee would be able to decide. Clay Mitchell said that the action here could be to authorize Kristen to move forward with the survey and compiling of potential violations and the establishing of a subcommittee. He offered a motion to authorize Kristen to work with a committee to collect potential district violations and to decide on a course of action to address those violations, and that the committee would consist of Calvin Dillon and Nancy Cleaves. DAG Nicole Ting noted that in that case the CHDC Chair would appoint the subcommittee Chair.

Tammy Hendrix reminded Clay that the motion would need to also include giving the subcommittee the powers of the full Commission. Several Commission members expressed their preference for the subcommittee to instead bring the list of violations back to the whole Commission for their review and decision – that the subcommittee would then be advisory in nature. Clay Mitchell asked if this needs to be established via resolution, and DAG Nicole Ting said yes. Kristen asked DAG Ting if she could still call a certain Commissioner with a one-off question such as, “has this problem been present in Dayton for decades?” DAG Ting said yes, that would be fine. Kristen pointed out that if the subcommittee did have the power, it would help streamline the process and get it done much faster than waiting for the CHDC’s monthly meetings. Clay Mitchell noted that not having the entire CHDC review them may take away the strength of the CHDC’s knowledge, and we may lose the chance for the whole group to shoulder this burden. Tammy Hendrix asked if these violations could go on a CHDC meeting agenda as one item and not each one listed as a separate agenda item for separate discussion and comment. Kristen said yes, she could present a list of all violations and photos of each, and the agenda item would be similar to, “do you approve this list as presented, or are there edits that you would like to see?” Clay stated that he will retract his earlier motion and revise it based on this discussion. DAG Nicole Ting recommended a motion to appoint a subcommittee, with the members to be appointed by the CHDC Chair, and to direct staff to draft a resolution formalizing that.

Public comment – Member of the public Mike Workman said that when he used to be a Public Works/Utilities Director, he would be on projects where they had subcommittees, and they were required to have Worker’s Comp to be out driving around and working in the field. Kristen agreed that is an important issue, and said that the State does cover its volunteers under Worker’s Comp if they sign a volunteer agreement. Joe Curtis thinks that the Commissioners are covered already and asked DAG Nicole Ting, and she said that they usually are during “official duties,” but that she will have to ask to be sure. Later in the discussion, Mike Workman noted that the process for posting and complying with OML for the subcommittee activities seems time-consuming.

Motion – Clay Mitchell moved to form a committee to consider violations and potential violations, to authorize the Chair appoint membership to that committee, and to direct staff to present a resolution formalizing the committee at our next scheduled meeting. Nancy Cleaves seconded the motion. A vote was taken and the motion passed with one Commissioner, Julie Workman, voting no.

DAG Nicole Ting noted that the subcommittee will not be considered “formed” until that resolution passes. She noted that the draft resolution can include the appointed members, and Joe Curtis asked Kristen to go ahead and include the two volunteers in the resolution.

AGENDA ITEM 10, PUBLIC COMMENT: (Comment limited to 3 minutes per speaker, no action will be taken until it is properly agendized): Member of the public Claude Sendon asked what the next steps would be with the district violation effort, and how the violations would be addressed. Kristen explained the preferred process: sending a first letter that would be more educational in nature, and allowing the parcel owner X number of days or months to address the issue and return to compliance; then escalating the letters to be more firm and to eventually involve the AG’s office; then eventually to begin the daily fines and/or stop work orders that are outlined in statute. We will aim to be as fair as possible and to understand that these requests may represent a hardship for some people. We will also endeavor to work alongside the Counties as the Counties address these same issues via their nuisance ordinances. We will also document everything we do very carefully.

AGENDA ITEM 11, ADJOURNMENT:

John Cassinelli moved to adjourn the meeting, and Nancy Cleaves seconded the motion. A vote was taken and the motion passed unanimously. Meeting adjourned at 7:13 PM.