

**Landmark Commission
October 16th, 2019
Meeting Minutes**

Meeting called to order:

The Chairman called the meeting to order at 4:35pm. The following members were present: Ms. Nikki Lloyd, Chairman Michael Zuilhof, Mr. Joe Galea, Mr. Alan Griffiths, Mr. Ryan Nagel, and Dr. Tim Berkey. Ms. Angela Byington and Mr. Thomas Horsman represented the Planning Department; Mr. Trevor Hayberger represented the Law Department. There were 7 voting members present.

Review of minutes from September 18th, 2019:

Mr. Galea moved to approve the minutes from September 18th, 2019; Dr. Berkey seconded the motion.

Mr. Zuilhof asked if we are being especially thorough with the minutes as this was one of the longer ones we have had. He stated he didn't know if there was a change in policy.

Mr. Hayberger stated that there has not been any change.

Ms. Byington stated that unless the commission has any concern, she advised the clerk to not worry about having word for word on the minutes for today's meeting since it is a working session. No concerns were mentioned.

All were in favor of the motion, and the minutes were approved.

1st application on agenda:

Mr. Zuilhof stated that the first item on the agenda is the application for signage at 128 E. Market Street, which was tabled at the September 18, 2019 meeting. He stated that since the applicant could not be present, the applicant asked if commission could move the application to next month's meeting.

Mr. Griffiths stated that since the applicant is not present and wishes to attend, that we should discuss the application at that time.

Mr. Zuilhof stated that we do not need a motion since there is no motion to take the application off the table.

Discussion of potential updates to the Landmark Preservation Ordinance and Sandusky Preservation Design Guidelines:

Mr. Horsman stated that Landmark Preservation Ordinance was passed in 2015. The Design Review District has somewhat of an overlap to the Landmark Preservation Ordinance. The ordinance was updated earlier in 2019. As of right now there are over 100 sites on the National Register in Sandusky. There are two locally designated Landmarks, which include City Hall, and the building right next door to City Hall. There are two National Register Historic Districts under this commission, which is the Downtown Commercial Historic District and there is also the Cable Park Historic District. He stated that something that has come up consistently is how does the commission make sure that the historic buildings are maintained and what can there be done to ensure that. He stated that staff has had discussions on how they can do better. One thing that has been thought about is going through the building/code/zoning software and making sure

that all of the historic properties are flagged so that staff are aware when applications are submitted for those properties. He stated that it has also been discussed for staff to look at these properties regularly and give some sort of education to property owners so that they are aware of what they need to do.

Ms. Byington stated that the Planning, Development, and Law Departments have been meeting and discussing the possibility of interior inspections. She stated that they are not yet sure on the answer to that, but that the building department and code enforcement need to focus more on downtown exterior inspections and enforcing them equally. She stated that it has been discussed that in the past there are some properties that should have been enforced upon, but prior administrations knew that they were looking to redevelop or invest soon.

Staff/Commission need to think about how to make enforcement more palatable to those who are getting ready to site. Maybe give information to property owners who are in violation about the ordinance as well as the grant funds, to alleviate any financial burden and bring the property up to code.

Mr. Hayberger stated that in 2015 it was said that you need probable cause to get into properties. Things to look at to determine probable cause include: water infiltration, neighbors complaining of bad smells, dead load, and structural issues.

Dr. Berkey asked about utilities getting turned off.

Mr. Hayberger stated that would depend on the time of the year and if the building is vacant or not. If there is somebody in there in the winter and the utilities are turned off, then that would be probable cause.

Mr. Zuilhof stated that it seems it would take some knowledge for example if the heat is off and there is no provision for ventilation. A building official would realize that you are going to get condensation in there. He asked if there was anything in past cases about what is probable cause or not.

Mr. Hayberger stated that probable cause is a case by case standard.

Mr. Zuilhof asked what is the worst that could happen if someone thinks they have probable cause and the court says that they did not.

Mr. Hayberger said that they could be sued for trespassing.

Mr. Galea stated that more than likely the person would be sued.

Mr. Berkey asked that if they applied what was just shared regarding probable cause to the Cooke Building, would there have been probable cause.

Mr. Hayberger stated that there would have been probable cause to get into the Cooke Building, due to the façade alone.

Mr. Berkey asked what about going to the list of owners in the Historical District and asking them to come in and offering them an inspection free of charge.

Mr. Hayberger said that there would be nothing wrong with that. He stated that the State Historical Society puts trainings on for certain properties.

Mr. Berkey stated that with knowing what happened to the Cooke Building, if owners are offered an inspection and then offered information on resources available to assist them, and it is done in a positive way, this may be a way to jump start things instead of spending months trying to figure out how to force the issue.

Mr. Griffiths stated that he agrees, but another piece that could be added is to say that if a voluntary inspection is done, then enforcement would be waived for a period of time in order to give people an incentive to do that and get the repairs done.

Mr. Hayberger said that he could look into that. He said that if there were safety issues, then we can't give too long of a time frame.

Mr. Griffiths asked if there is a current standard people are given to remediate.

Ms. Byington stated that she is not sure if this would fall under building code or property maintenance code, but that zoning violations are 72 hours, which would not work under the majority of these cases. She said that she thinks a voluntary program is a good idea, but that some people may be scared to take advantage of that. She stated that a prior building official once told her that if enters a building, that he is bound by his certification to cite them on certain issues.

Mr. Zuilhof asked that if the building department is in doubt of what is probable cause would they consult the law department.

Mr. Hayberger stated that yes that happens occasionally.

Mr. Berkey asked if there is anything on the books that allows staff to inspect the interior at the plan of transfer of ownership of the building.

Mr. Zuilhof stated that was proposed several years ago and it was not the sense of the City Commission to do that, as change in ownership does not give probable cause.

Mr. Galea asked that if commission find that Section .11, as far as when maintenance is not being observed is when the penalty, what is found under Section .09, as far as a fourth degree misdemeanor, or either aspects of the building code, which would apply as it essentially determined by what the actual maintenance failures are found. He stated that he is trying to figure out what the enforcement mechanisms are as far as assuming staff does go through and start preventing willful neglect, what avenues are there. He said his concern is that the penalty is a fourth degree criminal violation misdemeanor.

Mr. Zuilhof stated there is also the foreclosed properties and buildings ordinance, with expected maintenance expectations and penalties.

Mr. Hayberger stated that the theoretical answer is that a misdemeanor fourth degree is a \$250 fine and 30 days in jail as a maximum sentence. Maybe that isn't sufficient, but if it is a daily offense, that can add up real quick. The real answer is: is Judge O'Brian ever going to sentence anyone to jail or give them a big fine regardless. He stated that he does not believe laws should be made based off of who is sitting on the bench at that time. He said that he does not want to misguide the commission by stating that if we make this a misdemeanor in the first degree with a \$1,000 fine, tomorrow we will have people in jail, because that is not what is going to happen.

Mr. Galea stated that it is not his intention for anyone to go to jail, but that civil enforcement and fines are probably better. He asked that from a law department standpoint, does Mr. Hayberger think that adding a civil component to this would help enforcement, or if there are ways to make enforcement and compliance easier, or is the way it is written now the best way.

Mr. Zuilhof stated that there is the commercial and industrial property maintenance code that does have a first degree misdemeanor. One of them had a limit of \$5,000.

Mr. Hayberger stated that if these cases are done in as a civil matter, it may sit at common pleas court just as long. He stated that he thinks that the sooner there is punishment to the crime, it changes behavior. He said that if we went the civil route and went to common pleas, we are talking maybe a two year period and maybe it loses its emphasis.

Mr. Galea asked if there is any benefit to getting an injunction from somebody or a TRO.

Mr. Hayberger stated that if he was the defense attorney on that TRO, he would say that the city hasn't wasted all of the administrative remedies, which is one of the factors for the TRO.

Mr. Griffiths asked if we have any examples of previous enforcement actions. He would suggest taking on a free inspection program and an education program, with an understanding that we will start enforcing provisions that are already existing.

Mr. Zuilhof asked if there is need for new legislation, or do we need to use what we already have. He asked what can there be done so that staff do not seem like jerks when they go after someone who has let a building fall apart.

Ms. Lloyd stated that some of it is just consistency and enforcing what we already have. For example, Bertsch Jewelers has been gone for some time now, but their sign is still there, and people see that. She said that we could have a meeting and invite property owners in and let them know that as of the after the first of the New Year, what is going to be getting looked at. Property owners could then get potentially 9 months to try get the money and get the violations resolved before getting fined.

Mr. Griffiths stated that he agrees and that another step that could be taken is to send a letter to those that have a Landmark property, with the guidelines, a note that actions will start taking place, a number to call.

Ms. Lloyd stated that property owners that rent out their building could even state in their lease that when businesses leave that they take their sign with them.

Mr. Griffiths stated that another example is store fronts. There have been discussions many times about putting window dressings in empty buildings.

Mr. Zuilhof stated that we can't get everybody and that it isn't a good enough defense to say that because one person got away with something, so should someone else.

Mr. Galea asked if there is a program or ability to send out letters when those who are in violation get a warning letter.

Mr. Hayberger stated that Mr. Matt Lasko would have to weigh in on this, but he would think that his department would want to send a letter stating what the violation is and then if nothing happens maybe a second letter comes from the law department with a final notice.

Ms. Lloyd stated that the agenda for today with the ordinance and guidelines is overwhelming, so it might be better to give owners something simpler with common violations, and then state where they could find more information.

Dr. Berkey stated that he agrees that it is overwhelming and that is why he comes back to offering an inspection so that someone could explain to owners what is not in compliance. He stated that he feels a sense of urgency to get something kick started.

Mr. Zuilhof stated that the law is complicated and summarizing things is within reach. He said that he has a list of what could be summarized and that includes: Signs, Landmark Buildings,

Design Review, and Building Maintenance. He stated that he would be inclined to look for a motion to ask staff to create summaries for the public with those headings.

Ms. Lloyd asked if commission would give more guidelines in what they can use to attach the signage with. For example there is one business that is open that has probably 40 screws drilled on the outside, into a white sign. She asked how restrictive does commission want to be and how many guidelines should be given.

Mr. Zuilhof stated that he is not sure if the public will support it.

Mr. Horsman stated that he has found some documents to make things simpler for the public. He stated that sometimes something visually can help and showed examples of what other cities have done.

Mr. Griffiths stated that this would be a good place to start and let people know that staff will be following up and looking at other things to help the public.

Mr. Horsman stated that something else staff have talked about include dining areas on the right of way on the sidewalks.

Mr. Zuilhof stated that there are cases where people have built fences without proper review and have created barriers. He stated that people could sue when they cannot get through due to these barriers and action is not being taken.

Ms. Lloyd asked what would the steps be for enforcement, or is commission still trying to figure that out. She also asked what the purposes are for when people are doing this.

Mr. Zuilhof stated that when an encroachment license is granted it is always revocable by the city at will and asked the law director if that was correct.

Mr. Hayberger said that as long as it is a license, that is correct.

Mr. Nagel stated that as a newbie on the group he is still trying to understand how things work in Sandusky. He stated that it still doesn't sit well with him what happened at the last meeting, to approve demolition of the Cooke Building, when design is not yet approved.

Mr. Horsman stated that he generally agrees that there should be a good development reason why, but with the Cooke Building the structural soundness was a big issue and reason of the application.

Mr. Nagel stated that several people have said that the Cooke Building has been at risk for several years, but then a decision was made quickly to demolish it, so moving forward, he stated he thinks those issues can be handled differently through a combination of education, code enforcement, and requiring plans.

Mr. Galea asked Mr. Nagel that on boards he has sat on before, do they take into consideration the fact that a building may or may not be economically viable to demolish.

Mr. Nagel stated that no, because as a property owner, it is your responsibility to know if the building you are buying is a Landmark building or not. Also, if the building does not allow for what the owner's purpose is, then the owner could pick a different building.

Mr. Griffiths stated that in looking at existing language on demolition, it talks about preliminary development plans. So that language could be changed to state that a certificate of appropriateness is needed for demolition.

Mr. Nagel stated that in the Cooke Building case, the preliminary development plans were not shared, or not shared until the day before, and then they were too vague.

Mr. Griffiths stated that he would like Mr. Horsman to come back with some proposals on some new language to tighten that up and ask City Commission to look at that.

Mr. Zuilhof stated that it is common practice to look at what other successful cities are doing.

Mr. Horsman stated that staff's priorities are: formalizing an internal policy related to building maintenance and citations and looking at education and outreach and will bring those back to commission. He stated that he did get a date from SHPO (State Historic Preservation Office) to hold a training session, and that is the date of the December meeting and asked if there were any comments on that date.

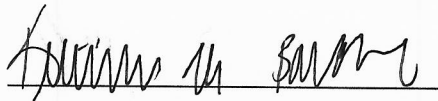
Mr. Zuilhof stated that if there is a lean agenda that month, then he would propose that commission gets through the agenda and then have the training session afterwards. If it is a large agenda, there could be a special meeting on a different day to go over applications, to prevent having to reschedule with SHPO. He asked if there were any objections to that. There were none.

Mr. Horsman stated that the certified local government evaluation by the state was reviewed and no deficiencies were found.

Meeting Adjourned:

Mr. Zuilhof asked if there was any further business, and with no responses, he adjourned the meeting at 5:51pm.

Approved by:

A handwritten signature in cursive script, appearing to read "Kristen Barone", written over a horizontal line.

Kristen Barone, Clerk

A large, stylized handwritten signature in cursive script, appearing to read "Michael Zuilhof", written over a horizontal line.

Michael Zuilhof, Chairman