

Summary Minutes
City of Sedona
Historic Preservation Commission Meeting
Vultee Conference Room, 102 Roadrunner Drive, Building 106, Sedona, Arizona
Monday, August 9, 2021 – 4:00 p.m.

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**

Chair Unger called the meeting to order at 4:00 p.m., led the Pledge of Allegiance and requested roll call.

Roll Call:

Commissioner members present: Chair Brynn Burkee Unger, Vice Chair Kurt Gehlbach and Commissioners Jack Fiene, Allyson Holmes and Bob Huggins. Commissioner Derek Pfaff was excused and there is one vacancy.

Staff Members Present: Kurt Christianson, Cynthia Lovely and Donna Puckett

Planning & Zoning Commissioners present: Commissioner Peter Furman

City Councilor's Present: Councilor Kathy Kinsella

2. **ANNOUNCEMENTS & SUMMARY OF CURRENT EVENTS BY COMMISSIONERS & STAFF**

Cynthia Lovely announced that Community Development has hired a new Director and he will start on August 30th and comes from Coconino County Community Development Department.

3. **APPROVAL OF THE FOLLOWING MINUTES: a. May 10, 2021 (R)**

Chair Unger indicated that she would entertain a motion to approve the minutes.

MOTION: *Commissioner Huggins so moved. Commissioner Holmes seconded the motion.*

VOTE: *Motion carried five (5) for (Fiene, Gehlbach, Holmes, Huggins, and Unger) and zero (0) opposed. Commissioner Pfaff was excused and there is one vacancy.*

4. **PUBLIC FORUM: (This is the time for the public to comment on matters not listed on the agenda. The Commission may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38- 431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)**

Chair Unger opened the public forum at 4:04 p.m.

Mark TenBroek, Sedona indicated that he has been known as one of the Jordan Loft folks, and he is here to ask a question. A couple of parcels were involved with Jordan Loft. One is the parcel that is further to the east, and he wanted to point out that that particular parcel has a portion of the original pipeline that served the Jordan Ranch where the ramps were installed down at Oak Creek and the pipeline is still present across that parcel. He is not sure what is involved in historic preservation of that particular pipeline. It is all on the surface and there are no other appurtenances associated with that, and one of the things in the Community Plan is to preserve certain elements that are key to the road and history of this community, so his question is what is involved in making that particular parcel a part of historic preservation within the city of Sedona and is that something that can be done by the community?

Chair Unger commented that it can be put on the agenda for next time.

Having no additional requests to speak, the Chair closed the public forum at 4:06 p.m.

5. REGULAR BUSINESS

a. Update/discussion on the Brewer Road Ranger Station historic buildings and property.

Cynthia Lovely reminded the Commission of the mission statement that says, "Historic Preservation Commission identifies and preserves Sedona's historic places and fosters civic pride in the accomplishments of the past." A few of you may not have seen that before, so she wanted to remind everybody.

Cynthia indicated that first, she was going to update you on the Ranger Station and in the last meeting she talked about how we completed the ranger's house at 250 Brewer. This fiscal year, we will be doing the renovations to the Ranger Station barn. Similar to the ranger's house, which we did in phases for the different sides, the barn will be broken into two phases. The first phase is the north side with all of the barn doors, which is the most expensive side, so they budgeted \$112,924 for Phase I, and they put it out to bid. The City Council is to approve the contract tomorrow with Loven Construction who did a couple of phases on the Ranger Station house. They specialize in historic preservation, which is good. For both phases for the barn, the budget is \$254,000. The first phase is probably the most expensive because of all the details of the doors, and that could begin this fall as the goal and probably the spring for Phase 2. The next step will be to start renovating the interior of both buildings, which will bring us closer to using them. Right now, for many reasons, the public can't use those.

Cynthia then stated that she wanted to go over the park improvements to date, and this came from Public Works. In 2015-2021, we had landscaping maintenance that was ongoing to maintain the property. In 2016, we began an environmental remediation and had to hire a specialist to come in to remove lead and asbestos from the buildings and the site itself. There was a large office building and quite a few smaller sheds and other equipment that were removed, and also in 2016, we completed the Ranger Station Park Master Plan. In 2017, they replaced the roof on the barn and did grading to prepare it for the park. On the southern section south of the barn, they had to change the grade for it to be ready when they build the park. In 2018, the shared-use path is the pathway that takes you from the barn up to Brewer Road at the top corner of the property and that is a 10 ft. wide gravel pathway. Eventually they will connect that with the rest of the path that will circle the park. That was put in first, because a lot of times, it is used for parking. Sometimes there is an agreement with Tlaquepaque for an event and that allows people to walk from the parking lot over to Tlaquepaque. There also were quite a few utility improvements. The electrical to the house and barn was replaced. Part of the renovations were to replace the old electrical, so we have the new boxes on the buildings, and it is ready electrically. The sewer line was installed, because one of the buildings was on septic and one was on sewer, so they had to run a new sewer line that runs along Brewer into the property.

Commissioner Fiene recalled that at the house there has a cistern, and Cynthia added that the cistern is under the house and in the plan. We hope to restore that to hook up the gutter system. She doesn't think they have put in a new water line yet. They are getting all of the basics done first, then the first big project will be the renovation of the buildings and those are first on the list as opposed to the remainder of the park, because of the condition of the buildings so they don't get any worse than they are. So the house is completed, and we are moving on to the barn.

The next plan is the interiors, and again they are going to break things into phases and the first phase of the park would be doing the parking lot, the landscaping, the restroom, and the lawn, then. The next will be the plaza, which is the area between the house and barn, landscaping and gardens.

Chair Unger mentioned that the pickleball courts were taken out from the original plan. It was something HPC did not want to see there, but also the people who play pickleball decided that was not the place they wanted those, so the city moved them and in the original picture that everybody saw, the pickleball courts have been removed. Cynthia Lovely added that the Park Master Plan for this property was done before the Posse Grounds Master Plan, and it is not quite complete yet, but that is where they would like to concentrate the pickleball courts. We heard from the pickleball players that they prefer having multiple courts in one location, and regarding the proposed driveway, Public Works was here at the last meeting to introduce this project and get feedback on the design. They did the same with Planning & Zoning and got some feedback, so they are finalizing the design taking those comments from HPC and P&Z into account, and they are anticipating construction this fall.

A member of the public stated that Cynthia couldn't be heard, so Cynthia restated that the Los Abrigados driveway is in design, and it went through HPC and the P&Z Commission for comment earlier this summer, so they are now redesigning it based on those comments, and Public Works said once it is finalized, it will go to construction this fall.

Commissioner Holmes stated that they were discouraged from taking a vote last time, and she would like to take a vote so it would be on record as to how we feel about this. Vice Chair Gehlbach added that he would like to discuss it also, because we had some things happen at the last meeting and the City Council meeting. There was a lot of deception, and he has to tell you, he is not agreeing to that driveway, he is not agreeing to the transportation model, he is not agreeing to cars coming in there, but he agrees to is this park being used for the community and that's it.

Chair Unger indicated she wanted to explain what HPC can do here and what our role is, but she was interrupted by Commissioner Holmes who said that it doesn't matter what we can do, we need to be on record that we disagree with it whether it has an effect or not. Chair Unger stated that as far as she knows that is not really going to make a difference in terms of what the City Council decides. We can say as much as we want, but the reality is our only take on this is not about the transportation, and the city did not come to us to ask if we actually agreed to that. That was not their presentation to us; they were making a presentation to us about what it was going to be and how they could handle it. If we are to make a vote here, she would say it is not really our right to say we don't want any transportation or that sort of thing in that section of the park.

Commissioner Holmes stated that Cynthia just said that our comments were taken into consideration, so she wants her comment to be on record. Chair Unger stated that all of those comments were on record for the city, and she thinks the city took those comments on record, but if we have a real issue with those things, those would be personal issues and not the Commission's issues. If you have a personal issue about traffic in that area, that's great and you should bring it in front of the city, all of us should if we have a problem with that, but the issue for the park itself in terms of what it looks like is – our main goal is to make sure, and it is a very fine line we walk with this, but what we are supposed to do is make sure no damage is done to that property that would make it not look like it did in the past. It is not for us to decide; the cars being there is not going to look like the past anyway and the parking lot is not going to look like the past, so we have to limit ourselves when making a decision. Certainly, we can make a statement and the City Council can look at those statements, but for us to vote on something, she doesn't see that as being appropriate. She may lean on Cynthia and Donna to tell her if her perception of this is wrong.

Donna Puckett stated that their mission is to preserve the historic buildings and the property around the buildings, but you don't dictate transportation plans in the city. Commissioner Holmes asked then why it was brought to them at all and Donna stated that your comments are on record in the minutes and are available to the Commissions and City Council.

Vice Chair Gehlbach stated that he is going to be very frank. The city's historic value has declined over time tremendously. He has been coming here since he was a kid; there is no historic here anymore. Nobody wants it; he does. He wants this city back, he wants the historic back, he wants his life back and this is not personal. Every single person that is sitting in here moved here not to just retire, but to live life, and if you are going to bring vehicles and emissions into the center of this city, then we have a serious, serious issue, and that is on another level – yes it is, but this park, if you want it to stay historic, then bring it back to its original state and don't do anything else with it. He is not kidding; he is not going to have a bunch of parking and traffic and things done when we can turn this into an amazing community effort and create gardens that people can be involved with constantly. I'm not going to cater to anyone else; I'm not.

Chair Unger pointed out that the reality is that it never had those gardens there in the first place, so if we are going to be doing that, we are actually looking at a different scenario anyway. She is totally in agreement with you that we as a Commission agreed to the park because we really wanted that to be almost like the heart of Sedona. A long time ago we thought of that as a place that could be the heart of Sedona, and she actually was very instrumental in getting the city to buy it. The city would not have bought that without her, and the mayor can tell you and almost all of the other City Council members can tell you, because she didn't want it to disappear. She didn't want it to become a commercial property, because nobody would look at it, so she understands what you are saying, but the reality is for Historic Preservation to lean in on the things you are talking about is really not our job from the city's viewpoint. We personally can, but when we are talking about a stance for HPC, we can say we don't like the idea and we did. We didn't like the idea of the road going across the bottom half of the property, and we leaned in when the pickleball courts came up, and we said no, we really didn't want that, but the City still overrode what we said and did what they wanted to do. She just wants to be sure that what we do is very clear in our vision of what we want, because if we start losing our vision of what we want, we are not going to be able to landmark other buildings and those are the things that we should be focusing on a lot more than we are right now. She is concerned and she told Cynthia that we are not doing enough of that.

Vice Chair Gehlbach interjected that we are not doing enough of anything. When you look at the timeframe half of this population will be dead by the time this is done. It is unbelievable the timeframe.

Cynthia Lovely pointed out that we aren't here to discuss the timeline of building the park. As Chair Unger stated, as the Historic Preservation Commission one of the things you need to be looking at as your role is the historic buildings, which are national and city landmarks, and the historic context they are in and that would be the involvement in the park plan, which has not changed and will still be built, the difference is the driveway and the pickleball courts. When we did the park plan, we involved HPC because of that context issue. For example, not having certain things too close to the buildings, and that is why you will see that things like playgrounds are further to the south and not around the buildings. That was the reason why HPC was involved in the park.

Chair Unger added that the city said when we purchased the buildings that it was going to be a while before they would be able to do anything with it. They gave us a plan in 2017 that they are actually following through with. They brought that to us then and told us that they could only do as much as they were doing over that period of time. Now whether they can find more money in the budget to actually do more is another question.

Vice Chair Gehlbach stated that we need to negotiate the property and he guarantees you we would have the money to finish this in no time. They are spending \$100,000 over the appraised value on property and going in and just processing it without . . . Cynthia Lovely advised Vice Chair Gehlbach that he was off topic. Vice Chair Gehlbach said no, that's our money. Cynthia stated that is not HPC's agenda. Vice Chair Gehlbach responded that it could be. Let's make

it the agenda. We need to start talking about things like. . . Cynthia again advised Vice Chair Gehlbach that he needs to stick to the agenda, but Vice Chair Gehlbach continued by saying okay let's talk about historical, let's talk about landmarking, which we were just talking about. Cynthia pointed out that the agenda item is update/discussion on the buildings and the. . . Vice Chair Gehlbach interrupted to say well let's agendize all this because we need to discuss it. If I'm going to landmark any buildings, I want them all done. This is stuff we've talked about.

Chair Unger asked Vice Chair Gehlbach to wait until the end when we actually talk about what we are going to do on future agendas; that is more appropriate. . . Vice Chair Gehlbach interrupted to say that what is more also is we have a number of people here who are listening and wanting things done. We're not doing it. Every time we talk about something, it is one building at a time, one year at a time. Nothing is going to get done the way this government is working in the city. This has to change. We need to start agendizing so we can get the money in here and start making things happen.

Chair Unger stated that basically the city has budgeted for this year and because of COVID we were not involved in that budget, because we were not having any meetings. She can see where that would be something we could do in the future, but again this is something we need to leave to another meeting, because it is not agendized. . . Vice Chair Gehlbach interrupted to say let's agendize finding the funds then, so we don't need to wait for the city.

Cynthia explained that the funds for the park. . . Donna Puckett interrupted to ask everyone to stay on the agenda item please; however, Vice Chair Gehlbach said he is talking about agendizing. Chair Unger pointed out again that we don't that until the end in agenda item six.

Vice Chair Gehlbach continued by saying that he apologizes, it is just that as we go along, he just keeps hearing excuses and people prolonging things and saying yes we have done this, but quite frankly, this has been going on so long, if he were to build homes this way, he would never get anything done.

Donna Puckett again asked if we could get back on the agenda, please. Cynthia showed the slide of the park improvements to date again and explained that the city has been doing a lot, and we did have everything budgeted out through 2025-2026. She would have to pull out all of the previous records, but as she recalls that was the timeline and she was told that as far as moving up, transportation was the highest priority for city residents, so they have focused the Public Works Project Manager on the transportation project, and that is why they haven't pushed up the park construction. They are focusing on transportation issues because the public said that is their priority, but she doesn't think the park construction timeline has changed from the original.

Vice Chair Gehlbach stated that none of that makes sense, because while you are telling us this, the city is buying property for the transportation model. Cynthia pointed out that is irrelevant to this discussion.

Chair Unger stated that she understands that Vice Chair Gehlbach wants to make that statement and that this audience probably has that same feeling about this, but that is not what HPC does, so her feeling is if you, and she knows there is some anger at us for not doing anything, but the reality is we don't actually do the final budgeting. We can put our say-so in there and we have in the past, and we are the ones that actually got the city to budget to buy that piece of property and we can do that again, but that is not what we are talking about here, and that is really not what HPC is does. If you have an issue with what the city is doing, you need to go to the city. . . Vice Chair Gehlbach interrupted to say that he understands we are talking about the park today, but what we also went through in the last meeting was that everything we were told wasn't really true because when we got to the City Council meeting, it was all about the transportation model and how everything was purchased around there and that this was going to be incorporated into it.

Chair Unger pointed out that was a City Council meeting and what we spoke about last time was exactly what we talked about that was going on there, and all of us made a concerted effort to discuss what was happening with it and what we didn't like about it. The reality is that at this point it has gone to the city, and the city is going to be making that design. She doesn't think that it will come back to us; they will make that decision on their own. Yes, she understands that it is really going to be whether that makes an impact, and if we want to as a group say that we don't like the road there because it will make an impact on the way the building looks or the way the park is going to look, that we can do, but we cannot say that we don't like the transportation situation.

Commissioner Holmes said then let's do that and Vice Chair Gehlbach added that he can actually tell you that road will destroy that park, because you are going to end up with a bunch of riffraff coming in there and destroying it. Chair Unger pointed out that riffraff and coming in does not – she understands you want to tell the city that. Vice Chair Gehlbach added that it is not for community. The Chair then stated that she is perfectly fine with you telling the city that and broadcasting it as much as you want, but right here, right now for us, we can say that we do not like the fact that the road is going through there, because it visually or in some other way is making an impact on that property, but that is the only thing we can say. The Chair then asked if she makes a motion for that would it be appropriate.

Cynthia reminded the Commission that at the previous meeting in May, that was the agenda item to discuss it, and the Commission did, and all of you made your opinions known. We do have minutes from that meeting; they may not be super-detailed, but again, the agenda item here is update/discussion of the buildings and property, and it is not whether there should be a driveway. That discussion happened in May.

Vice Chair Gehlbach said there has been a lot of discussion since then with the residents of the city and we were misled, because we weren't told things that were going on behind the scenes about not just this road, but the other road down the way. Chair Unger again stated those are not relevant to the Commission, and again. . . Vice Chair Gehlbach interrupted to say we are talking about the road; this road that is coming through our historic park is a problem and that problem stems into other problems. Chair Unger stated that the reality is. . . , but was again interrupted by Vice Chair Gehlbach who added that he can't even make sense of it, because he can't speak about this, because we can't talk about it; it's crazy.

Chair Unger stated that there are so many other ways that you can actually go about speaking about this to the city, but realistically in a meeting like this we have to concentrate and also realize that the reason we are a certified city government for the state and SHPO, etc., is that we stay within the boundaries of what we are supposed to do and we stay strongly within. Last time a lot of you made really good statements about what you felt about what was going on with that corner of this property, and beyond that, she feels we can't do that. She would encourage everyone to go to the city with what they don't like about what is happening with the traffic in that area, because that is something that is absolutely appropriate, but bringing it to HPC is not appropriate in the forum of HPC.

Vice Chair Gehlbach stated that he was under the impression that we had control of the park, that we were going to design this park, and the last time we spoke, they were going to bring that design back to us to re-evaluate that and take a look at it. He also had the impression that we were going to try to create something for more community here. Unfortunately, everything he was under the impression of didn't exist, because when he went to the City Council meeting, it ended up being much different. He would like to see this be one of our historic locations; he would like to see this accomplished within the next two years, not the next six years, because we have every ability to do so.

Cynthia once again said bringing it back to the agenda, we are not here to debate the park, traffic or roads, etc., that would be City Council, so you would need to take that type of

discussion to the City Council. Where the Commission has its purview is really the buildings, which is why we always give updates on the buildings and talk about renovations. Vice Chair Gehlbach then said so just the buildings, not the land.

Chair Unger indicated that actually the Vice Chair does have a point in that there is within the landmark designation, we asked that the land surrounding the building not be impacted in such a way that the building is impacted, and that is a part of what we do. The question is, and was in the last meeting, what is happening with the bottom half of that piece if we are putting that road through it. Unfortunately, several years ago when that happened and the city came to us and said they were going to put pickleball courts in there, we said absolutely that was not something that would be appropriate for historic preservation, but they went back to the City Council and the City Council said they were going to put those in, because that is what we need to do on that piece of property, so we are going to override HPC on this. The last time, when the city came to talk to us about a road going through there, we had some issues as to whether the walking trail would actually be appropriate, and there was a worry, and that was actually brought out, but again, it is going to the city. It is not a decision that we can make on that property. We are not going to be able to make the final decision. It still will have to go to the city. She thinks the thing that we really need to focus on is what is going to happen when the park starts coming together, because there still hasn't been any ruling about how the buildings will be used, etc., and that too may actually be a little out of our purview, but we are going to want to make sure that whatever the city decides to use those buildings for doesn't do something that would destroy the image of those buildings.

The Chair added that it is unfortunate that our only rationale of what we can do is the image of what it is, not necessarily the traffic around it or any of that sort of thing. We actually asked that some of the parking be drawn back away from the building, because we didn't want the buildings impacted by the parking around it, and it was done, so those are the things that we can do. Does she wish we could do more, yes probably, but can we, no.

Cynthia suggested that for the newer members, we could in the future talk more about what it means to be a national landmark and what we mean by the context of the historic buildings. Chair Unger noted that a lot of it is also on the Register of Historic Buildings, and you could ask SHPO if there is a problem with putting a road there. She would say that they will probably come back to you and say it is no problem, but they can talk to the city about it too, because it is on the National Register. She doesn't know that they will come back with anything with any kind of solution for what you are asking, and she is not being unsympathetic to all of you. You have the perfect right as members of this community to make those determinations and talk to people about it. On the flip side of that, we have to do what our job is and focus on our job, and honestly, she does think we can do more as HPC, and she talked with Cynthia about it, but it is going to be on us to do that. As much as we would like the city to be responsible for us and everything we do, it is going to be on us to make decisions to help, because she sent something to Cynthia, and we will talk about it in the future. She is way off the agenda item here, but trying to guide us back into being on the agenda in what we are thinking about now.

Commissioner Fiene stated that he would like to wrap this up, because we have a lot of other things to talk about, but you brought up the business about our mission and what it is that HPC does, and the fact that these are landmarked improvements and a landmarked property generally. What this road does is violate the sense of place and that is an important element in this, and he doesn't want us to forget this, so if you are going to fight, use the science and the definition and we will go a lot farther if we do that.

Commissioner Holmes asked why not consult SHPO, and Chair Unger said you can, but given where we are now and the fact that the city is actually – the other issue is when they left us after the last meeting, they were saying that they were going to work on that design and had not finished it, so she doesn't know that we can ask the city to come back when it is finished because at this stage in the game, we have already weighed in on what we think of what that is

going to be. She doesn't know if the city plans on coming back to us. She thought they were going to show the Commission the final design, but she doesn't know if that is the case.

Commissioner Huggins pointed out that the administration of the park will be under Parks and Recreation, not under HPC. He then asked Cynthia if we have an interior plan for the buildings, because that is where HPC could become very involved. Cynthia Lovely explained that the master plan discussed the use of the buildings, and she is pretty sure that HPC was involved in that, and it was decided that they would be community buildings, and as far as renovations, the discussions were around renovating the house to bring it back to the historic look minus a stove and refrigerator probably, but making it useful for public meetings, and on the barn the discussion was a larger community space and the goal was to keep the interior looking like the original, pulling out all of the modern additions and tear down the office building walls – that was the master plan discussion around the use of these buildings. Everyone is anxious to get inside and renovate, but first things first. The exterior of the buildings should take about a year to be finished.

Commissioner Huggins asked if we will have an opportunity to have input on the uses, because there are some historical things we could be doing with that building that would enhance the educational part of it, and he would like to revisit that at some point. In 2005, he was part of the Heart of Sedona Steering Committee and one of the things we talked about were museums in the building about natural resource management, so there was that discussion at the time with the Forest Service before they sold it.

Chair Unger indicated that we will certainly have a conversation about it after this, but basically it should be brought back to us because everybody on this Commission was not on the Commission when those decisions were made that long ago. Commissioner Holmes added that the planning committee was different than HPC. The Chair agreed and said it would be appropriate to do that, but we have a little time before that happens; however, we should do it before it gets out of hand and we lose the possibility of looking at it again, so as far as a future meeting that would be a good thing to be looking at.

Vice Chair Gehlbach stated he would like to discuss this further, because he is confused. This verbiage he is hearing today is confusing. Cynthia suggested that he call her or the Chair or we can sit down and . . . Vice Chair Gehlbach interrupted to say that what he means by that is you want to turn these into community buildings and yet it seems that the rest of the park is not going to be set up for community, and there are many different types of models that he can create just from what you spoke about that could incorporate the whole park. Cynthia indicated that she can make sure he has a copy of the master plan, so he can see what is proposed for the park, but we can do that outside of this meeting and a few of these comments now would fit well under the work plan.

Chair Unger stated that we have a real purpose here, as much as people may not think we do. We are caretakers of a lot of different properties that not everybody knows about, because they are landmarked, but they are not in the public eye. This one and Jordan Park are in the public eye, but some of the others are not and we are constantly making sure that things are happening, but when we get to future meetings we can think about other things too, but at this point, we should probably go on to item b.

b. Discussion regarding the 2021 Historic Preservation Conference (azpreservation.org)

Chair Unger stated that the conference is in October in Tempe and the city generally sends a number of us, so we can see what SHPO and the National is doing. It also gives us a chance to ask questions like Vice Chair Gehlbach's and sit down with the people who are running the National and SHPO, so Cynthia is going to need to know how many of us are going to want to go. We were sent something about the dates. Cynthia added that we sent a link, and it is also on the agenda at azpreservation.org. The last time she checked, they hadn't posted the

detailed sessions. The Chair agreed and noted that it is October 27th – 29th, so we may need to look at that. The Chair then advised Vice Chair Gehlbach that he could call SHPO too if he wants to talk to them, but please let Cynthia know if you want to attend and whether you need lodging.

Vice Chair Gehlbach stated that he thinks he is going to be down there at that time anyway, and the Chair again asked that they let Cynthia know. Cynthia added that she can send out an email reminder.

Chair Unger explained to Commissioner Huggins that the conference is actually very eye-opening, and they talk about the Commission's real role in historic preservation. It is worth going to and there is a lot of freedom in terms of what you want to listen to, but they do a training class on certified local governments and that is a good thing for all Commissioners to attend, because it gives us a better understanding of what we are doing here.

Commissioner Fiene commented that SHPO has been fairly dynamic during this period of COVID when everything else was shut down. They've been very proactive about historic preservation, and he attended a virtual meeting with them in June and that meeting lasted five hours. There were several different presenters talking about things he never knew, and they have talked about doing more of that online. He would encourage anybody to be involved with this, because it is extremely eye-opening and Kathryn Leonard has done a marvelous job of running it.

Chair Unger indicated that she would like for Commissioner Fiene to make more of a presentation about that and put it on the agenda for next time, so we can talk more about that.

c. Discussion of 2021 Commission Work Plan

i. Recognition Program

1. Finalize Cowboy Club recognition

Chair Unger explained that we started the recognition program with the recognition of the Art Barn. The recognition program is, for anybody that doesn't know, we can only landmark something if it holds to certain standards that we and the federal government have, and there are a lot of properties that we want to recognize as historic, but we can't landmark them. A landmark actually is the only way we can preserve that building into the future. It does not allow someone to knock it down or change it substantially; however, there are buildings in Sedona that we feel should be recognized as historic, but they have been changed too much and we can't landmark them. The simplest way of looking at it is if somebody walked up to it, would they recognize it as it was built, so there are a lot of them. The Art Barn was one and the Cowboy Club is another, but we feel that we need to make sure that some of these places that we can't landmark are recognized as important places in Sedona.

We had started this plan and came up with a whole layout as to how we were going to do this thanks to Commissioner Fiene. We started the program just before COVID and recognized the Art Barn. The second one was going to be the Cowboy Club and we were talking about doing one a year, maybe two a year. Basically, we give them a plaque and spend some time on doing research, but it is really driven mostly by the Commission. Vice Chair Gehlbach was instrumental in the idea of how to proceed through this starting with the Art Barn and Cowboy Club, then have a path of how that would happen, so we need to get back to that. She then asked if we have the plaque, and Cynthia indicated that we finished the design and just need to order it, but we need help with coordinating with the owners of the Cowboy Club to decide if they want to make it an event. Chair Unger noted that they did before; they were really excited about an event, but we will probably have to go back to them and make that decision.

Vice Chair Gehlbach stated that we talked about some other things too, but we don't have the bus tours we used to since the roundabouts. Those of certain ages love to put on some headphones with their phone in their hand and walk around Uptown and hear about the history, so our thought was to designate many of the locations, so you can draw people around Uptown and up into Jordan for a number of reasons, mostly business, but we also want the historical aspects and that is why he brings up instead of doing one a year, why can't we go ahead and do all of the businesses up there to get the walk in place, so we have that accomplished.

Chair Unger explained that the Commission was looking at using it for two purposes. One would be to do what you were saying about having the walking tour, but also we were thinking if we did one or two a year, it would give us a chance to get ourselves out there and get people to understand what we do. Right now, the public does not know what we are doing; they have no idea of what historic preservation is and what the places are, and we have to count on the members of this Commission to start doing some of these things and pull some of these things together. She does think that is a great idea, because it not only is great for those coming into town, but it is also great for the people who live here and don't know the history. The reality is that most of the people who live here think there is no history beyond 1980, but there certainly is.

Vice Chair Gehlbach indicated that is just a little business model, but it also increases revenue for small business owners and their employees' job security, etc. The Chair agreed that it is a great idea, and it is something to discuss when we are doing future agendas. It was sort of discussed with the recognition program, but it is important to do that as a separate thing, so we don't get caught up in that we have to recognize all of the places to make sure that they are going to be okay.

2. Identify potential sites for recognition

The Chair stated that in terms of identifying potential sites for recognition, maybe at the next meeting, she might have a list of those, and she might pull up that list, but we also might think more about other places that we could do. As a word of caution, some of the places that are historic are residences, and some of those people don't want to be on a list or be recognized, so we are going to have to be cautious in terms of how we go about this. She doesn't want somebody whose house was somebody else's house having people drive up looking at it, because that wouldn't be appropriate.

Vice Chair Gehlbach asked if the Chair thinks we should start in Uptown and the Chair replied yes, coming up with a laundry list of what we have, and she will see if she can find her list and send it to Cynthia to distribute it.

The Chair asked if Commissioner Huggins had any ideas on that, and he indicated that he thinks we are on the right track, and he does have some ideas. Chair Unger indicated that if he does, the Commission would appreciate it, because what he has that a lot of us around the table don't is that he was involved a long time ago in historic preservation, even at the beginning of the Historic Preservation Commission, he was involved in looking at the buildings that had history around here, so we are going to rely on Commissioner Huggins to build an understanding of some of the places and certainly if he wanted to make a list to bring to the next meeting that would be terrific.

ii. Other potential projects

No other potential projects were discussed.

d. Presentation/discussion regarding Arizona open meeting law requirements, conflicts of interest, email and other communications, subcommittees and staff working teams, public record retention, and other applicable requirements.

Presentation by City Attorney Kurt Christianson.

Kurt encouraged the Commissioners to ask any questions about the Open Meeting Law. He doesn't know how many of you have had opportunities to serve on other public boards that were subject to Open Meeting Law requirements, but this will be an introduction to some of you and a repeat for others.

Kurt explained that the Open Meeting Law requirements come from state law. We don't make them here at the city, but we are required to enforce them. As a general policy, the state says all meetings of public bodies be conducted openly, specifying that any decisions made by public bodies be made in an open meeting, and then there is a provision in the state law that even says the person charged with interpreting the Open Meeting Law, so the City Attorney in some cases, has to construe that the meeting be as open as possible, so if there is a question or a gray area, the recommendation that the attorneys are required to give is that be open to the public, so that is what he does

Kurt stated that there are a few exceptions to the Open Meeting Law, like Executive Sessions, and on your agenda, if you have ever read toward the bottom, there is an Executive Session, and the only one that could potentially ever apply to the Historic Preservation Commission is to receive legal advice, and even that would probably be a rare circumstance, because most of what preservation does is advisory to City Council or even P&Z and City Council in the case of establishing landmarks and historic areas, but it is on the agenda in case it ever came up and if there was ever a question, he generally doesn't attend the meetings, but he would be happy to get with you ahead of time or he is generally here on Mondays, so if something came up, he could come over and we could deal with that.

Commissioner Huggins asked if something like the potential purchase of property would fall under that, so if we were getting into a conversation about real property and purchasing it. You don't necessarily want to have that in an open meeting. Kurt indicated that is a possibility, but it probably would be limited to the City Council, because they are the ones that actually make that decision. The exception for purchasing property he believes is for the actual negotiations of the price. There would have to be some initial steps already, so that would be something that if HPC came up with the initial steps that would be an open public meeting, but later when it came to negotiating the price, that could be done in Executive Session but that would probably be reserved for the City Council.

Kurt Christianson the explained that this is a public body. It says a public body is all appointed boards and commissions of the city, and since it is a commission appointed by the City Council, it is a public body subject to the Open Meeting Law requirements. A meeting is a gathering in person or through technological devices in which the body discusses or proposes or takes legal action, so that includes emails and text messages. Public board members have gotten in trouble before trying to get around it through text messages and emails, and those have been through court cases that have been established that it doesn't matter how you are trying to communicate, but if you are communicating outside of the public meeting with a quorum, and in this case a quorum of this board would be four, so if there were two of you discussing that is generally fine. If there is three of you discussing, you don't know who that third person is going to talk to, so generally anything that you want to discuss with fellow Commissioners you just have to put on an agenda and when you have a hearing, you can discuss it in the open meeting. You should not be discussing outside of the open meeting.

Kurt stated that legal action is defined by the state law to mean the collective decision, commitment or promise made by a public body, so a lot of what the Commission does would

not necessarily fit under that, but when you are actually reviewing what is in the code, like establishing landmarks would obviously be legal actions, but you also take legal action just in your meetings like approving minutes – anything you do collectively can be considered a legal action. The Open Meeting Law requirements are generally fulfilled for you by Cynthia and the planning and zoning staff. They will make sure you have 24-hour notice of the meeting and that it is posted publicly and that there is an agenda, and then your job will be when you show up to make sure you follow the agenda. Anything that is going to be discussed should be on the agenda, you shouldn't be discussing things that are not on the agenda or related to the agenda item. That is something that everyone has a problem with, because we're human and when we are discussing something on one agenda item, it will trigger a thought and it is a great idea and you want to get it out and start discussing it, so if it is related to it, then it can be discussed and there is no hard and fast line to tell if it is related to the agenda item or not, but you'll get the feel, and your Commissioners and staff can help you know too if you get too far astray, then it is time to move on and discuss that at another time.

Kurt added that we talked a little about Executive Sessions with the main exception being in A.3 that says discussion or consultation for legal advice with an attorney or attorneys of the public body, and the key to note for Executive Sessions is that, even in Executive Sessions with the City Council or any public body, they don't take final action there. There are opportunities for some of them to direct staff to proceed, but they are not going to make any final decision, even with land, the City Council can't approve a final purchase agreement in an Executive Session. It has to come back into open session where City Council will review it and then they can take action.

Kurt explained that violations of the open meeting law is the main reason we discuss this, because there can be fines for violations for individual Commission members, and that is something that if a Commission member was found to have violated the Open Meeting Law, or a City Council member, whoever, that individual member gets to pay the fine; it is not something the city can pay on their behalf. Violations can occur in person, on the telephone, or electronically through emails or texts. While on email, that is a good one. A good practice when you send out an email responding to someone, City Council members use a tagline at the end that says it is my own opinion. I don't represent the Commission, and I definitely don't represent other Commissioners, so you can respond individually to requests from a citizen on different topics, but you should always let them know that you don't individually speak for the Commission.

Chair Unger stated that being a small community, there are often times we will get into a party, and we don't know that the other guys would be there. We may have all of us there, and we were told previously that as long as we don't congregate and look like we're discussing, it doesn't mean that we can't go to that party, because other members of our Commission are there. We just have to make sure that whatever we do, we shouldn't be talking about anything that is related to the Commission and we should not congregate in a way that looks like we are making those connections. She then asked if that is right, and Kurt stated that she is correct. If you know you are going to the same party, especially if it is a public function, like if you all belonged to the same church and it is going to be continually, it is not like you need to notice that every week or you all belong to the Rotary Club. No Historic Preservation Commission business will be conducted at those type of meetings; it is not something people would generally think would be taking place there, but if you happen to show up at a place, it would definitely be best to not all end up talking together, although you can certainly exchange pleasantries, but part of not getting any complaints about open meeting law violations would be avoiding the appearance of any impropriety. It is excellent advice, because there is no legal requirement that you can't end up at the same place or if you see a Commissioner you have to run the other way, but don't huddle up in the corner too; there's a happy median.

Some other ways it is violated is if you have four members on a Historic Preservation Commission, you don't want to splinter the quorum, and a couple of different ways to splinter

the quorum is a Daisy Chain where the Chair talks to the Vice Chair who talks to a Commission member and that is okay, but then that Commission member talks to someone else about it, so now you have a potential Open Meeting Law violation. Another way would be a hub and spoke, so if you are good friends with everyone on the Commission and you run into one someplace and you talk to them about maybe something coming up on the HPC agenda, and next week you talk to someone else, etc., and before you know it you have talked to a quorum of the Commission, so you had a discussion over deliberation per the legal definition on an item that should have been held in an open meeting. You want to make sure we always avoid that. Another way to violate the open meeting law would be use staff. You can't go talk to these Commission members, so you ask Cynthia to find out what so-and-so and so-and-so think about that. And one that is a little different is that it is a violation to direct staff or someone else to violate the Open Meeting Law, so don't even try now that you are fully aware of that, and in the case of a violation to direct, it doesn't matter whether the staff member fulfilled your direction or not.

Kurt stated that the penalties for violations of the Open Meeting Law would be nullification of any action taken. The Commission got together and decided to take an action and it wasn't done in the open meeting, so the action would be nullified. Another would be civil penalties, which includes removal from office and also a fine of \$500.00 for the first violation and for the third and subsequent violations it jumps up to the civil penalty maximum of \$2,500.00. The violator could also be on the hook for attorney fees for some of the Open Meeting Law claims, and then the public bodies on the case, and the city cannot pay the penalty for individual members. If it was against the whole Commission, there is some wiggle room there like if staff made a mistake on the publishing, it wouldn't be against individual Commissioners, the whole Commission would be listed, then there is opportunity there and the city would defend the Commission members and pay the fine.

Kurt indicated that as an extension that is often related to the Open Meeting Law is the Conflict of Interest law, and this one is a real interesting one, because it comes up all the time in close communities like Sedona. Like a commissioner lives down the street so they must have a conflict of interest or they are really interested in what is going to happen with this Planning & Zoning Commission or this historic building, and that is not the case. The state law definition, and although we talk about avoiding the appearance of impropriety of the conflict of interest, the actual definition is a real or seeming incompatibility between one's private interests and one's public or fiduciary duties. The actual violation is if someone has a pecuniary or proprietary interest, so a substantial interest, and pecuniary means money and proprietary means ownership, so if you had some stake in owning that property or the business that owned the property or looking to buy the property or if you had a financial interest with money to be made or lost by a decision of the HPC, or P&Z if you are on P&Z, or City Council or whatever public board that you are serving on – that is a conflict of interest. It comes up pretty rarely, but that is the side of the substantial interest, and we want Commission members to have an interest in individual properties, they should have an interest if they are on the board, and we need their opinions, we need citizens to come and staff and chair these meetings, and they should have an interest in what is going on and whether it should or shouldn't be approved and what the policy or business side before the board or commission is, but they just can't have a pecuniary or proprietary interest and that has been defined in a couple of cases – pecuniary means money and proprietary means ownership, and in bold, “as contrasted to general sympathy, feeling or bias”. You're welcome to have those sympathies and feelings about whether and how a project should proceed.

Kurt stated that penalties for conflict of interest are quite a bit more severe than violating the Open Meeting Law. Instead of fines and potential removal from board, anyone who knowingly or intentionally violates a conflict of interest like you did have a pecuniary or proprietary interest in the decision that the board made is guilty of a Class 6 felony and if you just did it negligently, it is a Class 1 misdemeanor and even a misdemeanor could be punished by a \$2,500.00 fine and six months in jail, so it is definitely more serious, but also at the same time, for a

Commission like the Historic Preservation Commission, you are less likely to have a conflict of interest in your positions than an Open Meeting Law violation, which is more human nature to talk to people about stuff.

Kurt indicated that as far as both of these, if there is ever a question on Open Meeting Law or Conflict of Interest, you can email him before the meeting preferably, but even if it came up and you realize it at a meeting, you could ask the Chair to take a quick recess, and then he could come over and we could talk about it even if it is that late, so you don't need to ever be wondering whether you are doing what is right or not. We are here to help provide advice to the Commissioners and Commission.

Kurt stated that the only other thing to note is that part of the Open Meeting Law is the retention of emails and there is a general two-year retention period. Most of your emails would be through the city, so the city takes care of that; they are recorded. If you ever conduct HPC business through text messages like any topic between the Chair and a Commissioner that is related to city business, the text messages are subject to public records requests and would be disclosed as part of that; it could be requested. Just keep it always in mind that the best way to communicate anything to do with your role in the HPC would be through email and that is even if you don't have a city email or city phone. There have been some recent court cases that legislative bodies and/or city employees conducting city business on their phone is subject to public records requests and that is all in our effort to be fully transparent and make sure they know what we are doing. He is sure you all agree that we're not trying to hide anything from the public.

Commissioner Huggins indicated that his understanding is that in a body of voting members, there is a certain obligation for everyone to vote yes or no, and yet there seems to be kind of a conflict. He was reading the City Council's rules and procedures, and they have that the only reason you shouldn't vote is if there is a Conflict of Interest, and under the Conflict of Interest law, you have to go to the mayor or city attorney to determine whether there is a conflict of interest and let them know if there is, then you have to recuse yourself from the body when they are discussing that, and he noticed that all of that was under Voting, but under the HPC's operational procedures, it says under Article 7.3, "A member may abstain from voting by simply stating a reason. Kurt explained that your own rules and procedures would control; there is not a state law requirement or a city ordinance requirement. He thinks generally the point of being on a commission or board or City Council is to express your opinion and vote instead of just abstaining, but if you wanted that changed, the only way to change that would be through changing your rules and procedures, your bylaws.

Commissioner Huggins indicated that there was a case where there was a lot of discussion about the vote, and then one person abstained when challenged by that and the person said, I don't want to hurt somebody's feelings, and to him that doesn't fit right. There is an obligation to vote yes or no, not present or whatever. He just wanted to get Kurt's opinion, and Kurt explained that he wouldn't go against the rules or bylaws the Commission adopted for itself. If you wanted more than that, then it would be a topic to agendaize and discuss with the Commission another day.

Chair Unger indicated that she didn't think we have ever had an Executive Session, and we may have had one Conflict of Interest in the time she has been on the Commission, which is about nine years, and it had to do with the property being right next to the other property, and they felt they needed to step back. Kurt Christianson agreed that he doesn't foresee an Executive Session meeting. One exception is that you are established by ordinance by the City Council, and you have some duties like historic landmark designations and a number of duties along those lines, so if a question directly related to those ever came up, that would be the time for an Executive Session. Generally, he is here to provide legal advice to the City Council and Department Heads for general advice, whatever questions they have. It is not quite the same with the Historic Preservation Commission that has a narrow Council-set agenda, and what

they are required to do, so he wouldn't be able to provide legal advice on any topic like he could with the City Council.

6. FUTURE MEETING DATES AND AGENDA ITEMS

a. Monday, September 13, 2021; 4:00 pm

Chair Unger indicated that we have given staff some things already for agenda items. There were some things from Commissioner Fiene, and we will get some of the properties we want to designate from Commissioner Huggins. Vice Chair Gehlbach also had some things. She then indicated that Commissioner Holmes had asked us to vote on something and asked if there is something she wanted put on the agenda for next time.

Commissioner Holmes stated that she doesn't know if it makes any difference, but she would like to consult with SHPO about this road. Chair Unger indicated that if you do any of that, you can't do it by saying you are part of HPC doing it. If you want to do it, do it as an individual. For us to do it as a group, we would have to make a decision that as a group we are asking SHPO. The Chair then asked if that is right or if Commissioner Holmes can go in and say she is representing HPC to SHPO.

Donna Puckett stated that the Commission would have to authorize her to speak on behalf of the Commission. The Chair then stated that in order to speak on behalf of the Commission, we need to have an agreement that the person is actually speaking for the Commission, is that correct? Donna Puckett indicated yes. The Chair then pointed out that does not negate Commissioner Holmes from being able to tell them that she is a member of the Commission, and this is what you have, that's fine. They will answer it whether you or the Commission is coming to them, so that is not a problem if you want to do that. You can find their information online or Cynthia can get it to you. You are probably going to have to talk to the architect for SHPO, because anything we have done in the past when there has been an issue had to go through the architect, and the architect is the one who has said something, but this is landscape, so she is not sure. She doesn't know if you recall when we did the home where they wanted to make a change to the exterior and the architect had wanted them to and we had to go to SHPO and they had to go through a process, and she had to speak with SHPO's architect to make sure that was alright, so that might be the case. They may refer you to someone else and you may be referred a little before they can give you that answer, and this is on the National Register. She doesn't know what the National Register has as to how much of that property is actually designated, because the building that came down, which is where we are talking about close to that road, was not on the National Register and that is why it was not on the landmark and we didn't have to go to the National Register to ask for that to come down, so again, it might be that the National Register is not going to project itself beyond a certain distance. You might look at what property is on the National Register; they might not project itself beyond a certain distance, but that would be a question to ask.

Vice Chair Gehlbach asked to agendize a discussion with regard to what we were talking about for Uptown, talking about that historical walk again. Chair Unger asked if there was someone on the Commission that had somebody they talked to about the earphones and a possible app for that. Commissioner Fiene indicated that was former Commissioner Steve Segner. The Chair then stated that we could probably talk to him about that.

Commissioner Holmes asked if materials related to that are available that Warren was working on regarding the walking brochure. Cynthia Lovely indicated that she could look in the file. The Commissioner added that he did work on it some. Chair Unger stated that she has the original walking tour sheetwork for it, and then we changed it, and we were actually printing it up to about three or four years ago, and then we found nobody was actually picking those up. It is funny how people get used to something else, and then you are not having those used a lot. Commissioner Fiene added that the Chamber was going to print them for us.

Cynthia indicated that we could add that as an agenda item, for our future work plan discussion, and a couple of different things have come up so maybe for the next meeting, she and Chair Unger will go through the list, because there is a lot on the list, and do a little research on some of those items. Chair Unger agreed that would be a good idea; she would be willing to do that.

Commissioner Huggins asked to resurrect his last recommendation that Cynthia give an update on the Uptown CFA, the situation with Hands through History, and he also had the walking tour if there is room for that; it sounds like that is a very full agenda. Chair Unger indicated that we can probably tie those things together.

Vice Chair Gehlbach asked if we are able to discuss the use of the barn in the future. Chair Unger indicated that we probably can, but there is going to have to be some research on it, because she thinks there were some restrictions that were put on that property when it was bought by the City, and they were odd restrictions. She thinks they occurred because of the monies used to buy the property. She remembers the Commission talked about using it as an art gallery, and they came back and said no, because there are restrictions on the purchase of the property and whether there was an end date to that, she is not sure, but we will have to look at that and she doesn't know if we will have enough time for that.

Commissioner Holmes recalled that as a member of the planning committee that the decision was made not to commit to any kind of business, and that was a choice that the group made. If there were formal restrictions, we would have known about that in the planning committee. Chair Unger agreed that was after in the planning committee, and if there were some formal restrictions, we should have known in that process.

Vice Chair Gehlbach asked if we are able to discuss other things that might come up in the future in regard to say another type of program, like a mural program. Chair Unger stated that we have a pretty hefty one for next time, but asked Cynthia if she could put that as an agenda item for the future. Cynthia Lovely stated that we were going to continue our work plan discussion and we have a quite a list of projects, so we can add everything to the list, and then narrow it down. Chair Unger agreed that could fall into that part of the agenda and if anybody on the Commission has things you want to include in the work plan, we can discuss it next time, as long as it is what we are going into the future with you can include it there. We don't want these sessions to go so long that things get lost in them.

Vice Chair Gehlbach then asked if he keeps the path and mural program in the same discussion, we are good, and Chair Unger said yes. Cynthia pointed out that on the work plan, you don't want to be too ambitious. She then reminded everyone that in the past we had trouble accomplishing one project. Chair Unger added that it was interesting that the reality is that when she was first Chair, we did a lot more as the Commission. The one thing we have to realize and be very careful of is how much time we are going to take of the city's staff to do what we do. If we find something we really want to do, and we can do it on our own, with maybe staff's review, that is one thing, but if we shift the weight to staff that is going to be . . . Vice Chair Gehlbach interjected let's not do that, he would be more than happy to do research.

Donna Puckett indicated that she is not sure if the Commission is aware or not, but you may have read about the theft of the plaque in Uptown, and she believes that was one that former Commissioner Steve Segner had arranged on the walk, so she doesn't know if anyone has communicated with him or if that is something for a future agenda. Chair Unger stated that she will talk to him about it, because he is the one that actually provided all of those and paid for them. Donna noted that it was in the Red Rock News police reports. Chair Unger indicated that Steve probably already knows about it and taken care of it, but she will talk to him. Chair Unger then noted that was one of the projects that HPC started in 2012 and he followed through and actually got it done, and those are the kinds of things that she would like to see us do.

7. **EXECUTIVE SESSION**

- a. If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Commission may hold an Executive Session that is not open to the public for the following purposes:
- b. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- c. Return to open session. Discussion/possible action on executive session items.

No Executive Session was held.

8. **ADJOURNMENT**

Chair Unger requested a motion to adjourn.

MOTION: Commissioner Holmes moved to adjourn. Commissioner Fiene seconded the motion.

VOTE: Motion carried five (5) for (Fiene, Gehlbach, Holmes, Huggins, and Unger) and zero (0) opposed. Commissioner Pfaff was excused and there is one vacancy.

The meeting adjourned at 5:36 p.m.

I certify that the above is a true and correct summary of the meeting of the Historic Preservation Commission held on August 9, 2021.

Donna A. S. Puckett, *Administrative Assistant*

Date