

**MINUTES OF THE REGULAR MEETING OF THE
SANFORD HISTORIC PRESERVATION COMMISSION**

**WEST END CONFERENCE ROOM
7:00 PM, MONDAY, AUGUST 23, 2010
SANFORD MUNICIPAL BUILDING**

Roll Call:

Commissioners Present: Al Roethlisberger, David Nestor, Ed Page
Brandon Atkins, Shannon Gurwitch, &
Mike Humphrey

Commissioners Absent: Donnie Worley

Staff Present: Clerk Anne Sears, Planning Director Bob
Bridwell, & City Attorney Susan Patterson

Government Official Present: Sam Gaskins City Councilman, & Charles
Taylor, City Councilman

APPROVAL OF THE AGENDA FOR AUGUST 23, 2010

Chairman David Nestor called the meeting to order. Clerk Anne Sears called the roll. Chairman Nestor asked for approval of the agenda.

Commissioner Humphrey said he would like to make amendments under Old Business:

- 1) Staff issues
- 2) Minutes that he felt weren't clearly defined
- 3) Minor COAs
- 4) Issue on Hillcrest Avenue
- 5) Reinstating policing policy of January 2007

Chairman Nestor asked Commissioner Humphrey for an explanation on all of these items. Commissioner Humphrey said staffing issues were not being effectively addressed and he wanted to come to some resolution. He said he had spoken to the State Historic Preservation Office (SHPO), and discussed some options, and possibly a solution regarding staffing. Commissioner Humphrey stated he thought the minutes were not doing real well; and he had a proposal that might eliminate that. Commissioner Humphrey noted that he had questioned staff about COAs but there had not been any information regarding those yet and he wanted to see tonight if some answers could be provided. Commissioner Humphrey wanted more information about Hillcrest Avenue; there had been an issue referenced in Sunday's editorial that he thought needed to be

addressed. Commissioner Humphrey said that he would like to reinstate the 2007 policing policy.

Councilman Sam Gaskins asked for a clarification from Chairman Nestor if these were motions from a previous meeting, and were they business that has been on the floor before. Mr. Humphrey said they were discussed, but no motions or decisions were made. Councilman Gaskins said then they were not motions. Councilman Gaskins noted if one wanted to bring something to the Commission and be discussed, it needed to be under New Business in the form of a motion - that this was parliamentary procedure, and the Commission needed motions on the floor before anything was discussed. He noted that was one of the problems he had noticed earlier at these meetings, was that there was a lot of volume in what was being said, but the Commission needed to have motions on the floor, discuss the motions, and get the business taken care of. Otherwise it was just a brain storming committee.

Commissioner Roethlisberger asked Councilman Gaskins in the case where the agenda might be used as a tool for the public to know what the Commission was going to discussing that evening, how did Councilman Gaskins justify that with an agenda item like New Business that may not have a lot of detail. Councilman Gaskins said hopefully one would know this before they came to the meeting, and then it would be on the Commission's agenda. Chairman Nestor said that was his point - if you do have issues please put them in writing to the Chairman, and let's not just bring them up at the meetings, and drop them in at the last minute. Commissioner Roethlisberger asked if prior to the meeting if it was OK to go ahead and solicit suggestions for the agenda, and Chairman Nestor said yes.

Commissioner Gurwitsch shared that there might be items they we would need a substantial amount of background information or it might be difficult to discuss. Chairman Nestor said they were mailed this agenda a week ago, and it came in the mail in a packet, along with the minutes, and any COAs that are forth coming; during that week, between the time one received the packet and the meeting was the time to go ahead and if you wanted to make a change to the agenda to please correspond with him. Councilman Gaskins said that if one didn't have the time to research any of this beforehand that is when one might table it; in his opinion it would help speed along meetings.

Commissioner Humphrey thanked Councilman Gaskins and indicated those items he wanted discussed be changed to New Business. Chairman Nestor asked if Commissioner Humphrey would put those items in writing. Commissioner Gurwitsch said she did not think it necessary for all of them to be written out. She felt comfortable adding staff issues, issues with the minutes, and minor COAs for that night's agenda, but the other two might need to have a little more background information before they were discussed. Attorney Patterson said that in order to change the agenda one had to request to add something to the agenda, so Commissioner Humphrey actually moved to change it.

Commissioner Page asked if the motion needed a second. Commissioner Gurwitch asked if she could modify his motion to only have three of the items added to the agenda, since she did have enough information on the other two. Attorney Patterson noted that neither motion had a second. Commissioner Roethlisberger asked which motion was dropped.

Commissioner Humphrey asked how one got two motions on the floor. Councilman Gaskins said one couldn't; Commissioner Gurwitch's motion couldn't be undone, until there was a second. Commissioner Gurwitch said that her motion was never made. Attorney Patterson asked if she was suggesting changing the motion.

Commissioner Humphrey said all of these were going to be something that would take a total of fifteen minutes for all five of them. Attorney Patterson asked if he wanted to incorporate Commissioner's Gurwitch change or not. Commissioner Humphrey said no, that all five of these needed to be brought before the Commission, and Commissioner Roethlisberger said he would second that motion, and they would filter this as a learning experience.

Chairman Nestor asked Commissioner Humphrey to make his motion one more time. Commissioner Humphrey said he would like to add under New Business: the staff issues, the minutes, minor COAs, Hillcrest Ave, and the policing policy.

Chairman Nestor said they could go ahead and discuss the motion, now that they had a second on the floor. Commissioner Atkins asked if they needed to make a motion on each individual item at that point, so they could get a little more specific information about what we were talking about. Chairman Nestor said absolutely. Commissioner Gurwitch said she needed more information on the last two, one of which was in the editorial when she was in Texas; she had no idea what was in the editorial, so she wouldn't be able to discuss that intelligently at all. Commissioner Humphrey said he didn't think they would be discussing it; he was just putting it out to see if that the situation exists.

Ed Page called for a vote; if anything took more than fifteen minutes then they would table it to help make the meeting move along. David Nestor asked if there was any further discussion.

Commissioner Page moved to approve the agenda as amended with the five additional items under New Business. Seconded by Commissioner Gurwitch, the motion passed unanimously

APPROVAL OF THE PREVIOUS MEETING MINUTES OF JULY 26, 2010

Chairman Nestor stated that everyone should have had a copy of June and July minutes. Attorney Patterson respectfully requested that the July minutes be put off until the next meeting. Attorney Patterson indicated she had not had a chance to look at the things that are basically in there and that perhaps should be stated in another way. Attorney Patterson provided an example - that the beginning of the meeting should have had a

heading that said Organizational Meeting. She mentioned it should have who nominated whom. Chairman Nestor was voted for Chairman; it should have been elected as Chairman. Attorney Patterson apologized that she didn't have the chance to get with staff to have those corrections made, so she asked that she would like to have the opportunity to do so if the Commission was willing.

Commissioner Roethlisberger said he was in agreement, and he would also like to request a change be made on page two. He noted there was a paragraph about changing the agenda, it showed item numbers but it really didn't say what was changed. He would like to see this in case it would be referenced years from now. Attorney Patterson asked if each commissioner would notify the clerk ahead of time to help clean up the language. Packets were usually mailed to the commissioners ahead of time. Attorney Patterson also reminded them if there was anything that came to them in final form, and they still had an issue with it, they could still make those amendments at the meetings. Commissioner Page reminded Attorney Patterson that the roll call voted needed to be spelled out also.

Commissioner Roethlisberger made a motion to table the July minutes for corrections until the subsequent meeting. Seconded by Commissioner Gurwitch, the motion passed unanimously.

APPROVAL OF THE PREVIOUS MEETING MINUTES OF JUNE 21, 2010

Chairman Nestor asked for approval of the June minutes. Commissioner Gurwitch said she would abstain from this vote, because she wasn't present and couldn't possibly comment on whether or not they were accurate. Attorney Patterson said one could abstain if they chose to, but the rules said that if one had a chance to read them and one was ok with what they said, then one could vote on them, even if one was not at the meeting.

Commissioner Humphrey noted he had some issues with the public comment section of the minutes and they were not real accurate. His point was very clear that during public comments in June, when he was not on the Commission, he told the Commission he had received three violations letters. These minutes indicated just one. He also noted the nine COAs that had not been addressed and some other concerns with the ongoing project at 410 Sunset Drive. The reason he wanted to bring this up was because at the next meeting his comments were just summarized and therefore were not issues that the Commission needed to deal with. He felt that they were issues that the Commission needed to deal with, so he asked that the minutes be amended to show those things that he just mentioned.

Commissioner Humphrey also mentioned that there were legal opinions offered by Attorney Patterson on matters, which needed to be included in the minutes. Chairman Nestor asked Commissioner Humphrey what legal opinion he was referring to. Commissioner Humphrey said Attorney Patterson was asked by Mr. Bridwell to speak on the subject of whether an application could be heard if the applicant or his/her representative were not there, since Mr. Holler was not going to be there that evening.

He indicated at the meeting that according to the application, the applicant or his/her representative needed to be there or the Commission cannot hear the case.

Attorney Patterson asked Commissioner Humphrey if he provided the clerk with a list of the points that he wanted to be added in as an amendment. Commissioner Humphrey said he did not. He continued to say he felt like it was not right for him to do so; he felt that it would not be right for any Commission member to do so until the minutes were submitted. Attorney Patterson indicated at the last meeting they had talked about making the minutes more accurate, but the Clerk had asked that anybody who wanted to submit to her things that they saw were in error, needed to be forwarded to her so that she could incorporate them into the minutes.

Chairman Nestor stated his concern to Commissioner Humphrey was that this opportunity was already given to him, so why at the last meeting did the Commission agree that if anyone had any changes or additions that they wanted to make to the minutes to please get them in to Anne or Liz prior to the meeting. Commissioner Gurwitch said she didn't think it was inappropriate for him to point out changes or omissions that were valid.

Councilman Gaskins said what you need to deal with now is getting the minutes corrected. Councilman Gaskins said that could be done right now, whether you have three, nine and others, it can be changed in the June minutes right now. The Commission just needed to approve the minutes as amended, assuming everyone had agreed to those numbers as being correct. Councilman Gaskins said he was at the June meeting, and he recalled the three part, but that his memory was not great enough to know all of those things.

Commissioner Humphrey noted his point in Public Comment was that he had three pending violations that he wanted resolved, nine COAs that had not been addressed in sixteen months, issues with a driveway not meeting city code, even though the city put it in, and a water meter installed in a location that would not allow him to perform a duty that he had previously said he would do.

Commissioner Gurwitch said Commissioner Humphrey also mentioned including the legal opinion that was given in the minutes. Councilman Gaskins said that the legal opinion most definitely should be included, that was probably the most important thing of all. Some discussion occurred about the time frame of events as it related to getting Mr. Holler to the meeting as he was unaware that he had to attend for the Commission to hear his case. At the conclusion, Commissioner Humphrey said he just wanted the minutes to reflect the correct time frame of events. Attorney Patterson asked Commissioner Humphrey if he wanted to make that amendment and approve the agenda with that amendment as one motion or two. Councilman Gaskins stated the minutes should be approved as amended, with the language per Attorney Patterson.

Commissioner Gurwitch moved that the minutes be approved with the recommended amendments. Chairman Nestor asked if there was any further discussion.

Attorney Patterson recommended that the minutes be a little more formal than this, with each item under number to have a, b, c, or d so that one could easily get to the topic at hand.

Commissioner Roethlisberger noted a couple of minor changes:

- 1) On page 2, paragraph five, second sentence, exist should be plural
- 2) On page 4, which was the review of the DeFosche pillars, last paragraph, the sentence where the lines started 4x4 post there, my name is misspelled. In addition he wanted the minutes to more accurately convey that he had pointed out that the three sets of columns, were probably not original. In fact, the ones on the right hand side were definitely not, because they were just put in last year. The ones on the front stoop, by admission of the homeowners, were later addition, and the ones on the left were of unknown age, but definitely looked much older and more original than the other two. Their contention was the square post were more original, but in fact when looking at the building the only evidence they had was the oldest pillars were actually the round ones. So that was the whole argument he was making there and why he ultimately voted against that COA.

Commissioner Roethlisberger noted that the Commission had a long discussion at the last meeting about minutes and why they were not verbatim and why they couldn't be in an ideal world, so they were summarized. His concern was that they were reflecting some of the things that happened in the meetings, but they were not doing a very good job in some cases of really calling out what and why for the cases. For example, Commissioner Roethlisberger noted where Joni Martin had presented her reasoning for why she could replace some of the openings with bronze metal windows verses having to replace them with wood, was that there were no original windows there, so she could not reinvent something that never existed, etc. That was never covered anywhere in the minutes. He said five to ten years from now, if someone asked why did Progressive put bronze metal windows in that building, they would not be able to reference this document to accurately determine what happened. He didn't think that served the purpose of the minutes.

Attorney Patterson asked if he had suggestions on how they should be, and Commissioner Roethlisberger said he didn't because there was so much to it that he would be putting words in the applicant's mouth at that point. Commissioner Roethlisberger said it warranted taking one more turn at these minutes.

Commissioner Gurwitch made a motion that the Commission table the decision on the minutes until such time that staff could review the tapes once more, and ensure that what was reflected in the minutes accurately reflected the discussion that took place during the meeting. The motion was seconded by Commissioner Roethlisberger.

Chairman Nestor asked if there was any further discussion. Commissioner Humphrey asked if staff could check to see in these two cases if it was asked if there was a disclosure of conflict of interest on these two cases. If it was, it needed to be in the minutes. If it wasn't, shame was on the Commission. Commissioner Humphrey also noted that the minutes just said that Mike Humphrey came up to speak. What his comments actually were was the time line of windows supported what Commissioner Roethlisberger said, which was that the round pillars on the left hand side were more original than the other ones.

Commissioner Page said this was all well-intentioned, but he did not expect Clerk Sears to catch everything he thought was important at every meeting. The whole point of a review like this was to go through and if he made a point that wasn't brought out, that was his opportunity to make a proposal, in written form that the Clerk could easily put in there, rather than her trying to determine what each of six or seven commissioners & counsel & ex-officio, thought was important. He just thought it would be an impossible expectation for us to have for the Clerk. Councilman Gaskins concurred. Chairman Nestor asked Mr. Gaskins if they could be submitted after the meeting as well, and Councilman Gaskins said yes, anytime. Attorney Patterson reiterated Commissioner Page's point that if one wanted something specific included that wasn't in there, then write it out and submit it to the clerk so it would help her put down those things you want there.

Attorney Patterson pointed out in the quasi-Judicial hearing, the facts that support a Commissioner's motions should certainly be reflected in the minutes. That is why the Commission went through the findings of facts as the judges in those hearing process.

Attorney Patterson further stated again that the Commission was not required to have public comment. The Commission chose to have them, so the question was how the minutes were going to reflect a speaker's comments. Attorney Patterson asked what would happen if the Commission had twenty-five speakers sign up for public comment. Chairman Nestor said they were supposed to try to monitor public comment to three minutes. Attorney Patterson said she was unaware of that. Commissioner Humphrey said that wasn't in the new Rules, and Commissioner Roethlisberger concurred, and indicated that the Commission never actually made that a rule; they had talked about they could do whatever. Chairman Nestor noted they would need to go back and double check. He further indicted that those speaking during public comment have an outline of their comments that can be handed to the Clerk during the course of the meeting.

Commissioner Page said the only reason we keep a record in the form of minutes is for purposes of legal action. Attorney Patterson said that issues mentioned during Public Comment could not be appealed anyway. Commissioner Page said there was no decision the Commission could make based on public comment, there were no motions before them.

Commissioner Roethlisberger agreed with that, but disagreed with the statement that the only reason the Commission had minutes was for appeals. Legally, that might be true, but

the Commission served the public; for instance, a mother of five children who may not make it every month, but wanted to stay abreast of what's going on, may use those minutes, and he fell on the side of giving them within reason as much information as they could have.

Commissioner Humphrey noted that all he wanted was the basic points better reflected in the minutes. Mr. Humphrey said if anyone disagreed or agreed now was the time to step up, that there was a motion and a second on the floor. Commissioner Nestor confirmed that the motion on the floor was to table June's minutes.

Commissioner Gurwitch said she was not a big fan of tabling minutes either; however, if the Commission had that much concern over the contents of the minutes, she felt it was important to address it, and then once it was hammered out and they knew exactly how things were to be summarized, then they wouldn't have to encounter this sort of problem again.

Chairman Nestor asked Attorney Patterson whether it would be appropriate to add to this motion that on our agenda next month we move the discussion of the minutes behind the COAs for public hearing. Attorney Patterson said traditionally the approval of the agenda and minutes comes first. Commissioner Gurwitch asked could we just amend it at that time next month. Attorney Patterson said yes.

Chairman Nestor strongly encouraged that the Commissioners needed to go through July's minutes with a fine tooth comb and get any corrections or questions or statements to the Clerk that they felt was missing in there. Commissioner Atkins asked now that they were going to table July and June, at what point would they say they finally were OK. Commissioner Roethlisberger stated they had made a commitment to review those ahead of time and provide comments to Anne prior to the next meeting.

Commissioner Humphrey asked if the minutes in the future could be e-mailed to him so it would be easier to go in and track his changes back to him instead of getting hard copy mailed to the house. It was the consensus of the Commission that the minutes be e-mailed. Attorney Patterson noted that if the Clerk e-mails each Commission member, you might get seven changes of the same word and to be careful about that.

Commissioner Gurwitch pointed out that they were an hour into the meeting, and they hadn't even approved the minutes. Chairman Nestor said thankfully they didn't have any public comment, or any COAs; he thought this was all good stuff to be getting out, airing their laundry a bit here. Commissioner Humphrey said in the privacy of us, and Commissioner Gurwitch remarked in the privacy of our public forum.

Chairman Nestor asked for clarification of the motion one more time. Attorney Patterson clarified that there was a motion to table the minutes of June until they accurately reflected what had happened in the meeting. Commissioner Gurwitch reiterated the motion. Commissioner Roethlisberger seconded the motion and the motion carried unanimously.

Chairman Nestor asked if there was anyone there for Public Comment; there being none he said they could move on to Old Business:

OLD BUSINESS:

Chairman Nestor shared that Commissioner Worley was teaching a class that night and was therefore absent. Chairman Nestor asked if everybody had a copy of the revised guidelines. Chairman Nestor said he believed they had stopped on page 4 and asked if anybody had any observations.

Commissioner Roethlisberger said that Mr. Humphrey was part of the committee that produced the original draft. The commission voted to eliminate the Design Review Committees (DRC) and the Design Review Team (DRT) Function from this portion of the proposed document, so Commissioner Worley had reflected that change. Commissioner Humphrey said that that was a huge mistake, further stating that an ADOC committee was established to review guidelines. They were given a charge, and on a monthly basis gave an update to the Commission. He found this disturbing going over and second guessing some of the things the committee wanted done.

As someone who had probably put in more COAs than the entire historic district combined, he felt that DRT was something that would be very valuable to them. He indicated that he was three and a half years into a project that should have taken ten months, and he still was having problems accessing the Historic Commission to address the concerns that a DRT could be working and dealing with on a daily basis. He noted that the guidelines already indicated that a committee was in place. Raleigh, New Bern, and Burlington had them. He didn't know why the Commission would take that away, because if nothing else the committee could deal with issues on a day to day basis.

Councilman Gaskins asked if the new proposed guidelines eliminated those committees or had they already been eliminated. Commissioner Roethlisberger said in the Certificate of Appropriateness Application there was an Architectural Review Commission reference, but it never existed as far as he knew. Councilman Gaskins commented if the committees didn't exist, then they shouldn't be in the guidelines. Attorney Patterson said the committee had proposed that they create a DRC, but this Commission decided that wasn't something that would be part of this rewrite. Commissioner Humphrey was on that committee, and now he was asking for them to reconsider it again. Councilman Gaskins said that it needed to be brought up again as new business then. Discussion ensued clarifying to Councilman Gaskins that the Commission was just reviewing the proposed design review guidelines as submitted by the committee and making revisions the Commission deemed necessary.

Commissioner Roethlisberger said he believed they were even voted on, because he believed he had voted to retain them. Chairman Nestor said we voted, and if they were ever going to move on, then they couldn't be stepping back. Commissioner Roethlisberger said that was true, and Commissioner Atkins said he agreed with that

philosophy, but still could be subject to change until they approved them as a whole. Chairman Nestor noted that they were still operating under the old guidelines until new ones were adopted. Commissioner Roethlisberger noted that they anticipated multiple review cycles, including public presentation and feedback, which could take as long as 12 months. Councilman Gaskins said again that if they wanted to try to reintroduce the committee, it should be under New Business and not related to the guidelines.

Chairmen Nestor asked everyone to go to page 6. Commissioner Humphrey noted that the first line COA- does not have the C in it. Commissioner Gurwitch stated that on page 5 Certificate of Appropriateness followed (COA) was already written out, so they really could use COA anytime after that.

Chairmen Nestor mentioned it appeared the changes were done by staff from that point on it was not Commissioner Worley's work. Attorney Patterson thought the first eight pages were before them last time. It was her assumption that Mr. Worley made the changes. She didn't know how this arrived in your packet, but she assumed Commissioner Worley had done it.

On line three page 6, Commissioner Roethlisberger said the next sentence said that going forward the Design Review Guidelines will be referred to as the Guidelines. Attorney Patterson maybe they should do it similar to the COA and put "(Guidelines)" after it was referred to for the first time.

Councilman Taylor left at 8:20 pm.

Commissioner Atkins asked to look at the second paragraph where it said a brief description may be sufficient for minor work. He suggested it say "All Routine Maintenance, Minor Work, and Major Work will be inspected and must meet the Design Guidelines."

Commissioner Humphrey asked why if the DRT was taken away why, did it say in the second paragraph from the end that "The DRT will help the residents prepare the presentation to the HPC". Chairman Nestor noted that that sentence needed to come out.

Commissioner Roethlisberger had questions regarding the next statement, "if a minor project does not clearly meet the guidelines as such, the staff will forward the application to the Historic Preservation Commission for consideration". Commissioner Roethlisberger said this was a carryover from the original document. Attorney Patterson said if it was redundant and was stated before that, then it actually should come out. It would be clearer if it said "A minor work COA application must be submitted to staff. The application describing the work that is being proposed must include appropriate supporting material. If the minor work does not clearly meet the guidelines, staff will forward it for consideration." Attorney Patterson commented to just strike half the sentence after the word "staff". Attorney Patterson also asked about changing the word "Planning" to "Community Development". Mr. Bridwell said that it had indeed been changed to "Community Development".

Commissioner Gurwitch had a question, regarding the first paragraph on page 6, where it stated “Exterior alterations of any building which is located in a historic district or which is a locally designated individual historic property”, should state “landmark” instead of “property”.

Commissioner Gurwitch mentioned the incident when a complete overhaul of a carport was made a minor COA approved by staff, when in her opinion it should have been a major. She asked what kind of recourse the Commission had for correcting errors of that nature. Commissioner Roethlisberger said that was part of that function of the DRT to be a buffer to help guide staff and everybody involved. Commissioner Page had some concerns that the DRT could run into some of the very same issues. He said there were two separate questions: 1. What would the DRC have done? 2. Was there or should there be recourse for this Commission when a minor is granted by staff, that was questionable?

Commissioner Roethlisberger noted that when they got to that part of the new design review guidelines it would help a whole lot if they replaced the matrix with some clearly defined areas which are minor and majors. He continued to say however that there would always be some gray areas that popped up; in that case the Commission always encouraged staff to punt. The second question he had no answer to. Chairman Nestor asked Attorney Patterson if the Commission felt that staff had overstepped their bounds, did the Commission have any recourse. Attorney Patterson said once it was approved, no. Attorney Patterson asked in the case that Commissioner Gurwitch mentioned, did the Commission all find out about it after the fact. Commissioner Roethlisberger and Commissioner Gurwitch said yes. Attorney Patterson said it might be a training issue.

Commissioner Atkins said as soon as he looked at it, he thought it was a major for sure, but reading in the matrix he could make the argument that it was a minor, because the information was not good. Attorney Patterson said perhaps when you get to that point of refining the guidelines, the Commission could clarify the steps, so that it would be clear to all what falls where. Commissioner Gurwitch said they were not going to come up with a perfect matrix, and yet they were going to run into this situation again, maybe not this Commission, maybe the next Commission, but she questioned why there was no recourse for a Commission. Attorney Patterson said once that permit was approved, pulling it back was going to be problem. Commissioner Roethlisberger agreed with Attorney Patterson, at some point it was a training issue.

Mr. Bridwell said that one of the things that happens in the course of administering these orders was that errors could be made by staff, and the objective was to reduce those errors to the very minimum possible. He thought their best recourse was to say to staff you issued this in error, we want you to have safeguards not to do it again, and then put those safeguards in there so it did not happen again. Attorney Patterson said you could issue a Stop Work Order. Commissioner Roethlisberger was concerned by that time a critical element might be destroyed, so it was really critical for all members of the Commission and staff to try to identify these problems early on. Chairman Nestor noted

the problem with the current matrix was that the matrix contradicted itself, such as the alternation of existing accessory structures or buildings was a minor, while alternations for additions or removal of carports was a major. The Commission needed to clean that up.

Attorney Patterson said she would see if she could identify some process that other communities used when COAs had been issued by staff, but the Commission wanted to review it after the fact. Commissioner Humphrey noted that the matrix was not a part of the guidelines, but part of the Rules and Procedures of the Commission. Commissioner Page noted that there still should be major and minor cases, because the Commission should not have to sit and listen to every single minor case. The staff would have to exercise some discretion of the line where the commission should hear the case. Chairman Nestor was concerned that staff would be looking over their shoulder constantly, and more importantly the Commission was not being fair to “Joe Citizen”.

Mr. Bridwell stated he was at the point right now that everything should go directly to the Commission; there would be no distinction between minor and major cases. That would be the easiest way to solve it. Commissioner Roethlisberger said that was not what they were asking for. Commissioner Roethlisberger said let’s work together and help each other figure out what will be satisfactory.

Commissioner Gurwitch left at 8:40 pm.

Commissioner Humphrey noted that when he talked to the SHPO about the carport case and indicated there should be a line. Mr. Bridwell stated SHPO had no authority over the City of Sanford. Commissioner Humphrey responded they act in an advisory role. Mr. Bridwell said they serve as an advisory role, as long as it fits within the State Legislation of the State of North Carolina. SHPO was not going to come down here and tell them they were in error or in favor; it was not their role. They were an entirely different level of government who offered recommendation and advice. Commissioner Humphrey said they keep us out of court. Mr. Bridwell said they didn’t do that either; the City Attorney was there to keep them out of court.

Attorney Patterson was concerned about the language about staff helping the resident prepare the presentation for HPC. She was cautious to say that it was not the staff’s role to present somebody’s case for them. The applicant should present their own case. Mr. Bridwell said in the case of Board of Adjustments, staff helped applicants identify what they had to present in order to fall within the guidelines. Attorney Patterson noted they shouldn’t say, “You ought to say this, you ought to say that”. Chairman Nestor said the same could be said for the building permit process; a building inspector could make some recommendations, but he certainly was not going to draw the blueprints for me. Staff was not there to design, but to tell them what was required. Attorney Patterson said in the case of Board of Adjustments, there were five findings that must be made; staff should tell them to present evidence that supports the five findings.

Commissioner Roethlisberger made a motion to table the review of the introduction to the New Design Review manual and for the next meeting have ready for review pages 6, 7, and 8 of the original document. Seconded by Commissioner Atkins, the motion passed unanimously.

New Business:

Mr. Bridwell noted the three minor COAs that had been applied for since the last meeting. (see attachment)

Mr. Bridwell also let the Commission know that the draft National Register Nomination for East Sanford was nearing completion and that he hoped to have it reviewed on Oct. 14th, by the National Register Advisory Committee. This coincided nicely as the City was beginning to make a concerted effort of revitalizing East Sanford.

Mr. Bridwell said that his staff serviced many boards and commissions. He constantly struggled, based on staff member 's equity and expertise, with staffing them all. He noted that in the early years of the Commission there was a full time person for HPC, particularly when they were doing a lot of startup work, but that staff position had been lost years ago. In fact, over the course of the last ten years, they had had eight different people working with the HPC. Now staff had a lot of other functions. For instance, the staff member who had been working for them was now working very actively on the Endor Iron Furnace. They still were trying to work through that process, but the assigned contact for the meetings was essentially him, and David Montgomery might assume some of that as well. He further stated that he didn't have a permanent solution on how the commission was going to be staffed, but that he would try to cover all responsibilities and make sure they were done effectively.

Mr. Bridwell stated that the Clerk Anne Sears was drafted for this job - she didn't volunteer, she didn't get a pay raise, but she was drafted because the Department had only a number of people who could fill that role. She has worked hard to prepare her for the role and will continue to train her in some areas.

The responsibility for assigning staff members for this department was his. He reported directly to City Manager, but also reported to the County Manager and the Manager of the Town of Broadway. For the time being, he was going to be their staff member at the meetings. However, he would need administrative help, such as filing on a day to day basis. He did not have a permanent solution and he probably would not reach one, in this budget year. If they didn't find he was doing an accurate job, to let his boss know. Mr. Bridwell understood the stress put under them as volunteers and thanked them for their effort; however, he also stressed that staff deserved to be treated and respected. It was his obligation to treat the Commission members with dignity and respect, as all staff members were obligated to do that. When staff didn't, internal discussions took place; staff wouldn't go off about it. He expected the same to be reciprocated by the Commission.

Commissioner Page asked, for example, if he were to wake up one morning and his neighbor was painting his garage door bright orange and he knew there was no way he got a COA approved for that, who was the point of contact for that? Mr. Bridwell said the point of contact would still be Staff Liz Whitmore; then either she or a code enforcement person would go out there and document. Chairman David Nestor noted you could call Code Enforcement directly, as well, for the orange door and let them channel it to Staff Whitmore. Mr. Bridwell said he had removed Staff Whitmore from the public role, because they were going through some staff training and upgrades, including her involvement with the Endor Furnace.

Commissioner Roethlisberger wondered if there was any sort of national or state grant or funding to help out funding of staff people. Mr. Bridwell said there was lots of money out there to hire people years ago but that trend had reversed over the last twenty years.

Commissioner Humphrey asked Mr. Bridwell if there was an individual inventory available yet for the proposed East Sanford District. Chairman Nestor asked Mr. Bridwell if he would make sure staff put the inventory list online, and Mr. Bridwell agreed to do so.

Commissioner Humphrey said he didn't think that there was anything that could not be worked out with the staff, but he thought it had to be a different approach. Maybe it was an issue of some training, or maybe it was some other things. He hoped that they all could sit down and maybe slam their fist on the desk a little bit, but walk away with something positive moving forward. It was his goal to make it work. He just wanted to say that personally to Mr. Bridwell, since some of what was said was probably directed to him. Commissioner Humphrey noted he didn't deal with things very well when rules were broken; mistakes were one thing, rules being broken were another. He was a rule follower, and they had to get to that to move forward.

Councilman Gaskins said if it was a personnel matter that anyone was complaining about, they should sit down directly with Mr. Bridwell and let him handle it. He encouraged that this was not to be something be dealt with as group but one on one. That person and Mr. Bridwell could pound tables all they wanted, but personnel matters should be one on one. Commissioner Humphrey agreed.

Chairman Nestor asked Commissioner Humphrey could he run down his other issues.

Commissioner Humphrey asked Attorney Patterson if video tape be considered a permanent record instead of minutes. Attorney Patterson said she would have to check, but she still thought you had to have minutes, that a written record of the case was normally required for review.

In reference to Hillcrest Avenue and Billy Liggett's Sunday editorial about a large dilapidated swing set in his neighbor's yard across the street, Commissioner Humphrey said that was against our guidelines. He noted Code Enforcement Officer Anglin may not have been aware of that, which took him to his next point, the policing policy.

Commissioner Humphrey remembered that Officer Anglin had come in to talk to the Commission a couple of years ago about a policing policy. It was agreed that Officer Anglin, and David Montgomery the HP staff member at that time would go out on every Friday and canvas the area for possible violations. He felt the ball had been dropped and there maybe reasons for that, but that maybe they needed to rebring that up. He went on to further say that the policing issue was important; they have had more non-compliant homes in Rosemount-McIver than they had homes that were in compliance. He asked that staff dig that out and bring a copy in of the whole packet that Carl had put together for us, including the complaint forms.

Bob Bridwell said that staff will follow up on the swing sets in the front yard. Mr. Bridwell noted probably eighty percent of what Code Enforcement does was complaint driven and that they didn't have enough people to cover all the complaints in town.

Councilman Gaskins asked if Commissioner Humphrey wanted to put that in a form of a motion. Commissioner Humphrey also asked that the block captain concept, where each member was assigned an area to canvass, deliver the newsletter, meet people, and give a weekly report of your block be reinstated as well.

Chairman Nestor said he disagreed - that there was a third option of educating people who are in the historical district, what is currently in place. He noted eight years ago when he came to Sanford that he heard people say the historic district was the last place one wanted to try to sell a house or the last place one wanted to live, because the Commission was just terrible to deal with. That had softened to the point now, that realtors were speaking highly of the historic district, and they had two realtors that sat on the Historic Commission. Commissioner Humphrey agreed; they had turned the Commission around, but to be careful not to swing the other way that nothing was enforced.

Commissioner Roethlisberger said that it had been an education process about what was positive and valuable about the historic district. He noted that there certainly was a relative argument for not over-policing as well; they just had to manage it better. Commissioner Roethlisberger noted that the pendulum was way to the right, and people were going nuts, so they went to City Council, and said we couldn't live here; all these people are making it impossible for making improvements to their house. Then the pendulum swung in the complete opposite direction, and people got upset because nothing was being enforced. Now it had been brought back somewhere near the center. Chairman Nestor and several others agreed. Commissioner Humphrey said it might be on a weaker side right now because of some things that weren't being enforced. Councilman Gaskins recommended that Commissioner Humphrey make a motion that a method of improving the policing or code enforcement policy be developed.

Commissioner Humphrey moved that at the next meeting to add on the agenda discussion of some sort of improvements to Code Enforcement in the historic

district. The motion was seconded by Commissioner Roethlisberger. Chairman Nestor asked if there was further discussion.

Attorney Patterson said she would be cautious about the block captain idea. The Commission should not be in the position of fact finders or investigators, for a matter that might come before the Commission on which they had to have an unbiased decision. The captain should turn it over to whomever handles complaints, as opposed to you trying to gather all the facts, because then you become a witness, not a judge. Chairman Nestor asked if one would have to remove themselves from the case. Attorney Patterson said yes, if one would be biased. Attorney Patterson said just be cautious for that and to think that through as the Commission may be discussing this at the next meeting.

Commissioner Roethlisberger noted that a former version of this body actually voted out the existence of block captains, because there were complaints of some of the members at the time, so this Commission would need to reinstate that. Attorney Patterson said or handle it in a different fashion.

Chairman Nestor called for a vote. The motion carried unanimously.

Commissioner Roethlisberger asked that staff provide the new Rules and Procedures to all members of the Commission and would also like to ask staff to provide Mr. Humphrey with his guidelines book. Mr. Bridwell said we will make sure that we get those to him. Chairman Nestor called for adjournment.

Commissioner Humphrey moved for an adjournment. Seconded by Commissioner Roethlisberger, the motion passed unanimously.

Adopted this _____ day of _____

BY: _____
David Nestor - Chairman

ATTEST: _____
Anne Sears, Clerk