

MINUTES

EXECUTIVE SESSION OF HISTORIC DISTRICT COMMISSION

JULY 7, 1993

Chairman Robert Janson-La Palme called the meeting to order at 5:52 p.m. In attendance were Commission members Anne Daly, Miriam Perkins and Richard Stenger and W. S. Ingersoll, Town Manager and Zoning Administrator. The meeting was tape recorded.

The Chairman stated that he had hoped that all members would be present, but he did not feel the commission should go longer without information about the fact that the Imperial Hotel has appealed the decision on the paint on the Hotel. The documents were signed by the Massonis with no attorney listed, however, the documents are drawn in a way that indicates the help of a lawyer. He stated that the first document points out that the Massonis will submit a petition in support of an appeal on the grounds that the refusal to grant their request was arbitrary and capricious and improper. He said this is what has always been on his mind when the Commission makes decisions, that they should never be viewed by the public or by anyone as arbitrary and capricious. The Commission should have a basis for their decisions and the basis in this case was that for some time the Commission had been opposed to painting of a natural material, particularly in the commercial district. He said he did not feel the Commission was being arbitrary and capricious.

The Chairman read parts of the petition submitted to the court. He reviewed the history of the application. He stated that the matter was being handled by the Town Attorney. He asked Mr. Ingersoll whether the Town has received a request for the pertinent documents. Mr. Ingersoll stated that they had not as yet. The Chairman said the case will move ahead very slowly unless the lawyer makes the decision to file a motion to dismiss the appeal entirely. He said the time frame involved according to the Town Attorney was that it might be near the end of the year before it actually goes before the judge.

Mr. Stenger asks what this does to the 30 days given to the Hotel to remove the paint. Mr. Ingersoll said this holds that in abeyance. He said they were given that notice immediately and they filed this action within the allowed 30 day period allowed for the appeal. They did that and the Mayor and Council voted to defend the decision of the Historic District Commission. Mr. Ingersoll said in one place in the appeal it is stated that the decision was arbitrary and capricious and in another saying the painting was approved by a Commission member as a private citizen. He said he did not know what merit the case has especially since the Massonis had written to the Town and said they would remove the paint. The Chairman said it is contradictory because in one place it says a Commission member authorized it, or okay by the Commission, and in another place they say that the Commission may not have any jurisdiction.

Mr. Ingersoll indicated that Judge Price had handled an appeal from the Town Board of Appeals rather rapidly and he hoped this one was handled rapidly. The Chairman said it is a great burden on all of the members. He said that

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the Commission must hold to their rules for the very thing that is cited, to avoid appearing arbitrary and capricious. The fact is it is such a small amount to rectify, and their behavior has been somewhat abusive. Mrs. Perkins asked what would happen if the judge throws it out. Mr. Ingersoll said then their appeal is spent and they have to comply. Mr. Ingersoll discussed the history of the events and cautioned the members that anything discussed in executive session was not to be discussed outside the meeting.

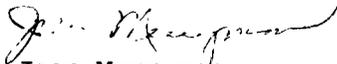
Mrs. Daly asked the Chairman if the hotel had painted the facade before the Hotel got the National Historic Award, would they have gotten the award. Mr. Janson-La Palme said that was a matter of decision for that committee, but if he were on the committee it would not have gotten it. He said what they are doing to the Commission is very poor, as the Commission has been trying for years to keep a steady record. We are a Certified Local Government, one of the very few in the State of Maryland, which is because we are organized and know our stuff. He said to be pounded almost weekly in the newspaper columns is bad. He said most of what he has read, he could have answered because the facts were wrong. Mr. Ingersoll stated that for the applicants not to have the money to remove the small amount of paint, but to have the money to file suit in the Circuit Court is too ironic.

The Chairman said he felt this was a liberal Commission compared to others, and occasionally they have to take a stand. He said he wanted to make sure that if this matter comes up, all you can say is that the matter is under litigation, and you cannot comment.

The Chairman stated that he went to the Md. Trust and got an updated Secretary of the Interior Standards and the wording is slightly changed, but the intent of the passages that he cited during that case has not changed. He said he felt the Commission is still on solid ground.

The meeting was adjourned at 6:15 p.m.

Submitted by:


Joan Merryman
Stenographer

Approved by:

Robert Janson-La Palme
Chairman