

## MINUTES

### EXECUTIVE SESSION OF HISTORIC DISTRICT COMMISSION

OCTOBER 5, 1994

Chairman Robert Janson-La Palme called the meeting to order at 6:10 p.m. In attendance were Commission members William Creager, Mary Jean Hudson, William Biddle, Miriam Perkins and Richard Stenger, and Joan Merryman, Stenographer.

The Chairman said the first item he wished to discuss was the meeting in Easton on November 4, 5 and 6, 1994 sponsored by the Maryland Historical Trust and the Maryland Main Street Center along with Preservation Maryland, Maryland Association of Historic District Commission and Maryland Downtown Development Association. He stated that Mayor Bailey has asked that every member of the Commission attend these meetings and since they are in Easton that should be possible. The information was distributed and each member should review it and advise Joan which sessions each will attend so that registration and fees can be sent. The Chairman said he also felt every member should attend. He said some of the subjects dealing with Main Street development are very pertinent to what the Commission is considering. He said other sessions are being presented by the Maryland Association of Historic District Commissions and they have expertise in running meetings properly and dealing with the problems that come up. He said he has been an officer and he was sorry that we are no longer a dues paying member of that group.

The Chairman said there were a couple of legal matters. He said he is a little concerned about the enforcement of the decision made about the Imperial Hotel. He said he believes the Mayor and Council met on this, but neither the Town Attorney nor Mayor has said anything to the Commission. He said he has observed that paint is already peeling off some of the bricks. He said these people have kept the Commission engaged in agony over sometime and that it is high time that it be resolved.

The next matter to be discussed was the matter of the Rector vs. Rosenbaum situation. The Rosenbaums objected to the Rectors' application for S. Water Street. Mr. Rector has asked for a judicial review of the Commission's decision in this matter in the Circuit Court for Kent County. He said the minutes will be transcribed verbatim to be included in the record for the court. He stated that since this issue is going to court, members should not discuss the matter in any form with anyone. The Chairman stated that the issue may be made moot since the Board of Appeals will hear the request for the variance on October 6, 1994. He said this is an issue that bothers him as the Commission did not know that the applicant needed a rear lot variance. He said the Historic Commission takes the heat on the issue. He said he prefers to have all other approvals before an application comes to the Historic Commission and he had presumed that would be done after the May meeting.

Mr. Janson-La Palme stated that he was asked to meet with Mayor Bailey. When he met with her Councilman Bristoll was also present and there was a frank discussion about how the Commission operates. He said Mayor Bailey promised she would provide him with a specific list of complaints about procedures in writing so he could review them. He said he was later given a handbook from

the Town of Bel Air with lengthy and detailed rules of procedure for their Historic Commission. He said Mayor Bailey discussed the conduct in the Historic meetings. He said the matter of discussions by members among themselves while a presentation is given, people being out of order and disruptive comments from the audience were mentioned. He said on many issues nowadays people are becoming very economically driven. The real estate market is tight, and there are property issues before the Commission, which means money. We are getting more lawyers in our meetings than we have ever seen and we are in a litigious atmosphere. He said it is important for the Commission members to be on their best behavior and stick to Roberts Rules of Order; not speak unless recognized by the Chair and make anything that is said pertinent only to the application at hand.

The Chairman stated he was pleased that Mrs. Hudson had stepped down from the discussion on the Young application. He said when there is an application such as this for a neighbor, a member should excuse himself/herself from the discussion and voting. He stated that the Town Attorney, Mr. Bowman, had felt it might not be appropriate for Mrs. Hudson to speak at all on this application, but as Chairman he permitted her to comment. Mr. Janson-La Palme said if a statement is to be made from a member in the audience, the comment should be limited presenting testimony, not entering into a discussion.

The Chairman stated that a very important point is that a motion on an application must contain a finding of fact and list reasons why approval or denial is being given. He said the Commission is to decide on appropriateness, and the motion should include the details such as color, materials, etc., how they are appropriate to the structure, and a statement of the facts you have found. The question that may arise is whether the Commission arrived at a decision in a logical way. He said the decisions need to be made on the basis of whether the changes are appropriate to the historic period of the building and to the guidelines of the Commission. The members discussed making notes as the application is reviewed so that specifics may be mentioned in the motion.

The members questioned whether they were being criticized for not doing a good job, would they be forced off the Commission for not following guidelines, or what the purpose of the criticisms were. The Chairman stated that the Commission is being scrutinized in meetings, in the newspaper, and for the potential for legal action. Mrs. Hudson said she has heard people say that the Commission does not follow guidelines. The Chairman said the Town has a policy wherein each Commissioner is insured through a municipal association, but he wanted to emphasize that a member could be sued. He said he has asked to see the insurance coverage on paper but has not seen it.

The Chairman said there was an expanded set of guidelines sent by Michael Day handed out some months ago, but they have not been adopted in whole or in part by our Commission. He asked each member to go through these guidelines and we will determine how much we want to adopt, or make up something of our own. He said the meetings in Easton may help. He said that if all or part of these procedures are adopted, it should be made part of the public literature. He stated that once you put guidelines down in black and white, you can lose some flexibility. You will be held to the written guidelines. He said that the Mayor is in agreement that the Guide to Permit Procedures booklet needs to be

revised and that funds are available through the Certified Local Government program. The Town must put up 40% of the money now on these grants. He said the public should be informed about what is expected.

Mr. Creager said he felt the guidelines would be helpful and Commission members should know ahead of time what is on the agenda so they can be prepared coming into the meeting. Mr. Biddle said now there is a checklist for the Planning Commission so that an applicant knows what they need. If an applicant knows ahead of time what is expected, the applications will be complete and the applicant will not have to keep returning. Mr. Creager said it is important that the Commission focus only on the appropriateness of the changes and not get involved with zoning, whether it blocks someone's view, etc. He said none of that is any of the Commission's business. The Chairman said he did not agree with that 100%. He said in the Rector situation there was a special situation with the townhouse block. A townhouse or condominium there are certain rights and certain expectations and the applicant did not inform the Commission correctly.

Mr. Biddle referred to the Farr Midland application and stated that the demolition of the newsstand building is a critical part of the project. He said the matter of the demolition will have to be decided before they can go forward. He asked if that could be discussed. The Chairman said the Commission was meeting for legal purposes and he was explaining things that should be done from the legal standpoint, but the Commission cannot discuss specific cases in this session unless they are in legal action. He said a decision should be made on the demolition at the next meeting. He said he would be in favor of waiving the 25 day period if we meet before that time has elapsed, since October 19 was discussed for a meeting. He stated he was remiss in not reading the application in full because of time constraints, but the demolition of that building is listed on the application. He said waiving the 25 day period would be fair to the applicant.

Mr. Biddle said the Commission had an informal meeting with an earlier applicant for this property. The Chairman said that was handled the same as the one presented today, every member gave their comments and asked questions. Mr. Biddle asked what happened to that proposal. The Chairman said he did not know and that was not an issue for the Commission.

Mr. Biddle asked if the Chairman was going to follow up on the paint thing. The Chairman said the burden of enforcement is on the Town and he has documented that some of the paint is peeling off. He asked if the Commission wanted him to pursue the matter. The Commission felt something should be done and if enforcement is not followed up, it undercuts the credibility of the Commission.

The Chairman said another matter he wished to bring up was whether or not people should be sworn in to testify. He said he discussed it with Paul Bowman and he thinks it is legal, but he would like to research this more. He said people tell us they will do something and then turn around and don't do it or do something entirely different. He said he has resisted swearing people in, but when the applicant does not perform it makes the Commission look foolish. Mr. Creager asked if it makes a stronger case if a witness is sworn in. The Chairman said it would be perjury if they don't tell you the

whole truth and don't do what they say. Mr. Creager said this would not be perjury it would be neglect. The Chairman asked the members to think about that kind of procedure. Mr. Biddle said he felt they had tried to keep a friendly, low key atmosphere and treat everyone with respect and he did not think we need to make it any more formal. He said we should allay apprehensions on the part of applicant and make them comfortable. A checklist of what an applicant needs would be helpful. Mrs. Hudson said the atmosphere is changing and we may have to become more formal with lawyers showing up we may have to become more formal in the future. The Chairman said this is a small town and we do want to be friendly but also be able to rely on the word of the applicants. Mr. Bowman made the suggestion about swearing in witnesses.

There being no further business the meeting was adjourned at 6:45 p.m.

Submitted by:

Joan Merryman  
Stenographer

Approved by:

Robert Janson-La Palme  
Chairman