

City of Keene  
New Hampshire

HISTORIC DISTRICT COMMISSION  
MEETING MINUTES

Tuesday, November 20, 2018

4:30 PM

2nd Floor Committee Room,  
City Hall

**Members Present:**

Hanspeter Weber, Chair  
Councilor Thomas Powers  
Erin Benik  
Hans Porchitz (Arrived at 4:36 PM)  
Joslin Kimball Frank, Alternate

**Staff Present:**

Mari Brunner, Planning Technician  
Tara Kessler, Senior Planner  
Brett Rusnock, Civil Engineer

**Members Not Present:**

Andrew Weglinski, Vice Chair  
Nancy Proctor

**Site Visit:** At 3:45 PM, in advance of the meeting, Commission members conducted site visits of the following properties in Keene: 16 Church Street, 20-22 West Street, and 26 Washington Street.

**1) Call to Order & Roll Call**

Chair Weber called the meeting to order at 4:31 PM and Ms. Brunner conducted roll call.

**2) Minutes of Previous Meeting – October 17, 2018**

Ms. Kimball Frank moved to approve the minutes of October 17, 2018, which Councilor Powers seconded and the Historic District Commission carried unanimously.

**3) Continued Public Hearing**

- a. **COA-2018-03 – 34 West Street – Retroactive Approval for Window Replacement - Applicant Greg Johnson, on behalf of owner West Street Keene LLC, requests retroactive approval for replacement of all exterior windows. A waiver is requested from Section XV.B.5.b.2 of the HDC Regulations regarding window appearance and Section XV.B.5.b.3. of the HDC Regulations regarding design materials. The property is ranked as a Primary Resource and is located at 34 West Street (TMP# 575-033-000-000-000) in the Central Business District. *The applicant has requested the Historic District Commission consider a***

***second extension of the time period for the Board to act, and continue the public hearing for COA-2018-03 to December 19, 2018.***

Ms. Brunner reported that the applicant requested a second extension of the decision deadline, which is 45 days typically. The applicant also requested that the public hearing continue until the December meeting to accommodate the schedule of the window manufacturer, who he wants to attend the meeting in order to explain the options for exterior muntins or grids. She said the Commission can vote to grant or deny the applicant's request; if denied, the Commission would need to decide on the application at this meeting.

Ms. Benik moved to grant the request for extension, which Ms. Kimball Frank seconded.

Councilor Powers said he was inclined to grant the extension, but was disturbed because this application is the reason the Commission changed their schedules to convene on this date; he can see this continuing indefinitely. Councilor Powers moved to amend the motion to include a request that the owner be present for the December meeting.

Ms. Benik also suggested this should be the last time the applicant can request an extension; Ms. Kimball Frank and Mr. Porchitz agreed it has gone on too long. Ms. Brunner recommended including that stipulation in the official minutes (as opposed to a motion) so the applicant is aware. There could be extenuating circumstances that prevent the owner from attending in December; she believes the owner lives in NH. The motion to amend the motion to include a request that the owner be present for the December meeting was not seconded before the Committee and was not acted on.

On a vote of 5-0, the Historic District Commission moved to grant the request for extension and continue the public hearing of COA-2018-03 to December 19, 2018.

**4) Public Hearings**

Before hearing the individual applications—all for Walldogs murals—Chair Weber asked the applicants to provide background for the overall project. He said he would then close public comments and the Commission would conduct public hearings for and vote on each individual application. Chair Weber opened the public comments and welcomed the Walldogs Festival organizers, Peter Poanessa (36, Dickinson Road, Keene) and Judy Rogers (50 Woodbury Road, Keene).

Mr. Poanessa recalled the festival is scheduled for June 2019, when the City will host international artists painting 15 murals in the downtown of historical figures, events, and institutions important to Keene. The most appropriate materials and techniques will be employed to ensure the murals remain for decades. Volunteers are organizing the festival, fundraising, locating and getting permission for mural walls, getting information to the artists, hosting the artists, and facilitating the festival. The community voted on the mural themes and only a few locations remain to be finalized. Overall, the project is going very well. The organizers described a map provided to the Commission, which showed 12

green dots (locations approved, for approval at this meeting, or negotiating with owner) and five black dots (the three final mural sites will be chosen from these). There is still one building wall (NE Photo building) whose owner is unreachable thus far, but the organizers still hope to have a mural on that building. In that region of town, the Court House is the second preference; the organizers still need to find out if painting a mural on that wall will affect the property's listing in the National Register of Historic Places. Ms. Rogers noted the TD Bank building (black dot) is a preference for one of the remaining walls if the building sells in the next few weeks and the new owner is amicable. The few walls that are still in flux (black dots) are all horizontal murals so the artists can begin working on a design that could be used on any of the remaining walls. The organizers maintain patience in order to secure the best and more logical walls.

Ms. Rogers recalled questions from the Commission about the configuration of the mural proposed for City Hall. The organizers agree with Mr. Weglinski that the mural would be more appropriate in a new location, size, and shape on City Hall; still, they are unsure how to accomplish that change with the size and configuration already approved. Ms. Brunner said the new configuration can be approved administratively by staff if the Commission provides that authorization; otherwise the applicants can return to another meeting for approval. Councilor Powers asked if the size of the mural will remain the same. Mr. Poanessa replied it might have to increase to balance the space well, but would remain under the 40% HDC requirement easily. Ms. Kimball Frank said she is more concerned with the surfaces painted than the configuration, so she supports administrative approval. Mr. Porchitz agreed staff approval would suffice. Ms. Brunner recalled that because no public hearing was issued on this mural, no motion was needed.

Chair Weber recognized Rosemarie Bernardi (51 Cottage Street, Keene), who supported the project description. She added that having approval for walls already has helped the organizers decide the optimal location for each mural subject. She thanked the Commission for the walls they have approved already because it has made the planning process easier and kept it moving forward.

Chair Weber closed public comments for discussion of the overall Walldogs Festival. The Commission continued hearing applications for each mural location. The following three applications all refer to the same relevant HDC regulations the applicant must meet for approval, as follows:

- *Section XV.B.2.b.3 – Masonry*
  - *“3) Masonry shall not be sandblasted or abrasively cleaned, but cleaned with the gentlest method possible, such as low-pressure cleaning at garden hose pressure, using water or detergents.”*
- *Section XV.B.2.b.5 – Masonry*
  - *“5) If currently unpainted, masonry other than concrete masonry shall not be painted, unless there is physical, pictorial or documentary evidence that the building was historically intended to be painted or unless a painted mural is proposed which meets all of the following conditions:*
    - *i. The mural will enhance or complement the historic or architectural features of the structure or site, and*

- *ii. The mural will enhance or complement the historic character or context of the surrounding area, and*
- *iii. The mural will showcase images of local places, people, and/or products that have historic significance to Keene and/or the surrounding region, and*
- *iv. The mural will be designed by a professional mural artist or sign painter, and*
- *v. The mural is not located on the primary elevation of a Primary or Contributing Resource, and*
- *vi. The mural will not cover more than 40% of the surface area of a building or structure façade, and*
- *vii. The applicant has demonstrated that the proposed surface treatment is appropriate for historic brick or stone masonry materials. Waterproof coatings shall be prohibited.”*

Additionally, the applicants agree that all three proposed murals will incorporate images of local people, places, or products that have historic significance to Keene and/or the surrounding region. These themes, as well as the mural design, have yet to be decided. The mural will be designed by a professional mural artist or sign painter, and will be painted with help from volunteers. Also, as noted in the project backgrounds, the brick surfaces of all proposed murals will be cleaned using a mild soap and scrub brush, and rinsed with water at garden hose pressure.

- a. **COA-2018-09 – 26 Washington Street – Walldogs Mural - Applicant Magical History Tour, on behalf of owner Maria Bradshaw, proposes to paint a mural not to exceed 336 sf in size on the south façade of the building historically known as the Warren Block. The property is ranked as a Primary Resource and is located at 26 Washington Street (TMP# 568-064-000-000-000) in the Central Business District.**

Ms. Brunner recommended accepting this application as complete. Ms. Kimball Frank moved to accept application COA-2018-09 as complete, which Councilor Powers seconded and the Historic District Commission carried unanimously.

Chair Weber opened the public hearing. Mr. Poanessa reported the brick on this south-facing wall is in good condition, as it was repointed recently. Because it is south facing, the colors will be muted to withstand sun exposure. This is the same building as the three-story Coca Cola mural, so it provides great visibility and enhances the continuity of the walking tour. The organizers are glad the building owners agreed to host a mural. Councilor Powers said he is comfortable approving this wall.

In response to Chair Weber, Mr. Poanessa explained that bright and vibrant colors dull over time with sun exposure. The organizers want the murals to be as durable as possible, so this is only one of three murals that will face south and have more muted color schemes; artists are very happy to work with these color schemes (the color palette and exact colors used is at the artists discretion). Chair Weber asked if any additional surface

preparation is needed for south-facing walls. Mr. Poanessa replied no; he provided the example of The Bagel Works building, where the mural is in good condition 25 years later, and it was not applied by a professional. The Walldogs murals will be double or triple coated to help them last 50 years, at minimum. The organizers are considering carefully what subject matter would be best suited for the muted color scheme on this wall. For example, this wall could be a candidate for Katherine Fiske.

Ms. Benik confirmed the address of this building is 26 Washington Street; it is correct on page 23 of the amended meeting packet.

Ms. Brunner provided staff comments on this application, which meets all HDC regulations regarding murals (listed above). The applicant proposes to paint a mural in the style of a classic painted building advertisement on the south side of the building. The proposed mural would be approximately 24' tall by 14' long (336 sf, or 10.5% of the surface area of the 3,200 sf façade). This location is visible from Central Square and Washington Street looking north, but is not on the primary elevation of the building. The applicant proposes to use 100% acrylic paint; no waterproof coatings are proposed.

Chair Weber closed public comments.

Councilor Powers made the following motion, which Ms. Kimball Frank seconded. On a vote of 5-0, the Historic District Commission approved COA-2018-09 for installation of a painted mural on the south façade of the building located at 26 Washington Street (TMP# 568-064-000-000-000) as presented in the application submitted to the Community Development Department on October 30, 2018 by Magical History Tour on behalf of owner, Maria Bradshaw with the following conditions: 1. Staff review of mural design prior to painting to confirm conformance with Section XV.B.2.b.5 of the HDC Regulations.

- b. **COA-2018-10 – 16 Court Street – Walldogs Mural - Applicant Magical History Tour, on behalf of owner Cracker Factory Condos, proposes to paint a mural not to exceed 416 sf in size on the east façade of the building known as the Gurnsey Block. The property is ranked as a Primary Resource and is located at 16 Church Street (TMP# 574007-000-000-000) in the Central Business District.**

Ms. Brunner recommended accepting this application as complete. Councilor Powers moved to accept application COA-2018-10 as complete, which Ms. Benik seconded and the Historic District Commission carried unanimously.

Chair Weber opened public comments. Mr. Poanessa said this east-facing wall is unpainted brick with no windows currently that appears to have been repointed a few times over the last 20 years. His inspection via binoculars shows the wall in good condition. The organizers want to place this mural high enough on the wall to be visible from the Wells Street parking deck and the surrounding area. This is a large wall that will likely be chosen for a very colorful mural.

Chair Weber asked for clarification on the differences between the directions the walls face. Mr. Poanessa said, in terms of longevity due to sun exposure, northern walls are given highest preference, followed by eastern, then western, and then southern-facing walls.

Ms. Brunner provided staff comments on this application, which meets all HDC regulations regarding murals (listed above). The applicant proposes to paint a mural in the style of a classic painted building advertisement on the east side, or rear, of the building. The proposed mural would be approximately 16' tall by 26' long (416 sf, or 20.6% of the surface area of the 2,016 sf façade). This location is visible from the Wells Street parking lot and Wells Street garage. The applicant proposes to use 100% acrylic paint; no waterproof coatings are proposed.

Chair Weber recognized Charles Daloz (37 Church Street, Keene). Mr. Daloz lives across the street from this mural location; he asked if there are opportunities to connect this mural to the new pocket park and Eversource transformer there. He suggested if the mural extended down to the parking area, it could have a better connection. Ms. Rogers showed Mr. Daloz a photo explaining why this is not possible.

Ms. Benik said it seems like one of the larger walls proposed for a mural. She knows the HDC regulations stipulate a mural cannot cover more than 40% of a wall; she asked if the applicants considered requesting a waiver to paint more of this wall. Mr. Poanessa replied the organizers would be happy to increase the size of this mural, but the challenge of completing a mural so high (with a hydraulic lift) in three days make that impossible. He expects the largest mural to be on Green Energy Options because it is a large wall, low to the ground. Ms. Kimball Frank said she loves the brick on this building and thinks the mural will help draw even more attention to the beautiful brick. Mr. Poanessa said they tried to locate all murals to be appropriate and proportional for the walls.

Chair Weber closed public comments and said placing the mural high on the wall is a fine addition because it is such a large wall.

Ms. Benik made the following motion, which Councilor Powers seconded. On a vote of 5-0, the Historic District Commission approved COA-2018-10 for installation of a painted mural on the east façade of the building located at 16 Church Street (TMP# 574-007-000-000-000) as presented in the application submitted to the Community Development Department on October 30, 2018 by Magical History Tour on behalf of owner, Cracker Factory Condos with the following conditions: 1. Staff review of mural design prior to painting to confirm conformance with Section XV.B.2.b.5 of the HDC Regulations.

- c. **COA-2018-11 – 20-22 West Street – Walldogs Mural - Applicant Magical History Tour, on behalf of owner David Sohn, proposes to paint a mural not to exceed 384 sf in size on the south façade of the building known as Chase's Block. The property is ranked as a Primary**

**Resource and is located at 20-22 West Street (TMP# 575-032-000-000-000) in the Central Business District.**

Ms. Brunner recommended accepting this application as complete. Councilor Powers moved to accept application COA-2018-11 as complete, which Ms. Benik seconded and the Historic District Commission carried unanimously.

Chair Weber opened public comments. Mr. Poanessa noted this is another preferred wall; it is high priority because it will be visible from the Farmers Market and the west side of town. This mural will also be located high on the wall to be visible above adjacent buildings. There is a seam high on the wall with lead and tar in it, as well as water stains above it, which should be avoided; otherwise the mural would be even higher on the wall. In response to Ms. Benik, Mr. Poanessa said the wall condition looks good below the seam and the stains do not appear to be spreading beyond the seam. The brick is clean below the seam and he is not concerned with the stains spreading and harming the mural.

Chair Weber asked why they want to paint higher on this wall. Mr. Poanessa said the height was chosen so the mural can be visible from Gilbo Avenue, which adds appeal to that developing part of downtown. Ms. Kimball Frank said the placement is great because trucks, traffic, and parking would impede visibility if the mural were lower on the wall.

Chair Weber recognized Ms. Bernardi, who said she loves that some murals on the walking tour will be closer and intimate, while others will be farther away and draw participants along the tour. There is a planned physical and thematic pacing of the walking tour. She said the organizers did a great job selecting the placement carefully.

Ms. Kimball Frank noted a wall in the background of the photo provided for this location; she said it would be another great wall for pedestrians. Ms. Rogers agreed; that is the NE Photo building, where they are still trying to contact the owner.

Ms. Brunner provided staff comments on this application, which meets all HDC regulations regarding murals (listed above). The applicant proposes to paint a mural in the style of a classic painted building advertisement on the south side, or rear, of the building. The proposed mural would be approximately 24' tall by 16' wide (384 sf, or 35% of the surface area of the 1,100 sf façade) and would be located on a blank, unadorned wall. This location is visible from the Gilbo Avenue parking lot, Gilbo Avenue, and Commercial Street, but is not on the primary elevation of the building. The applicant proposes to use 100% acrylic paint; no waterproof coatings are proposed.

Chair Weber closed the public hearing.

Ms. Kimball Frank made the following motion, which Councilor Powers seconded. On a vote of 5-0, the Historic District Commission approved COA-2018-11 for installation of a painted mural on the south façade of the building located at 20-22 West Street (TMP# 575-032-000-000-000) as presented in the application submitted to the Community Development Department on October 30, 2018 by Magical History Tour on behalf of

owner, David Sohn, with the following conditions: 1. Staff review of mural design prior to painting to confirm conformance with Section XV.B.2.b.5 of the HDC Regulations.

**5) Discussion about Proposed Roxbury Street Bridge Replacement - City Engineer Don Lussier will provide an update about the Roxbury Street Bridge, which is proposed for replacement in the summer of 2019.**

Chair Weber welcomed Brett Rusnock (Civil Engineer, Public Works Department) to update the Commission on this project in the City Engineer's place. Mr. Rusnock explained that the City submitted a Request for Project Review to the NH Division of Historical Resources for the Roxbury Street Bridge replacement. Since the southwestern corner of the project is within the Keene Historic District, the reviewer suggested that staff coordinate with the Historic District Commission about the project directly.

Mr. Rusnock provided a brief overview of the project, including the purpose, funding source, and desired schedule. The bridge was first installed in 1891 for \$300 approximately. The most recent construction on the bridge was in 1922, when the stone abutment was rehabilitated, concrete was added, and a new deck was constructed. He also shared information about the 1969 collaboration with the Army Corps of Engineers to build floodwall channels throughout the City and thus reduce flooding. This bridge is in poor condition; it is on New Hampshire Department of Transportation's (NHDOT) Red List (based on annual inspections), which means repairs are eligible for the NH Bridge Aid Program. Through this program the City only has to pay 20% of repairs, while the state pays the remainder.

Mr. Rusnock explained that staff and NHDOT are seeking input from the HDC on one aspect of this bridge repair: the bridge rails that are installed along the back edge of the sidewalk. The majority of the bridge will be hidden from view, and the rails will be the most visible aspect of the project. He explained that the bridge is located at the transition between the business district and the residential district, and that it should act as a gateway between the two. He also noted that the remaining bridges on Beaver Brook are due for replacement in the next 10-20 years. Thus, staff also wants to develop a visual template that can be repeated with future bridge replacements.

Mr. Rusnock shared two photos of potential bridge rail options, one being painted steel and the other being decorative formed concrete. The photos were in black and white, which he said detracted from the visual appeal of the steel rail. Ms. Kimball Frank asked about the difference in cost and durability of the steel and concrete options. Mr. Rusnock replied he did not have a good idea of the costs or lifespan yet. Concrete would likely deteriorate from salt intrusion that breaks away the concrete over time; steel is more susceptible to long term rusting at joint locations where there is frequent water contact. He anticipates the costs of the two materials will be comparable.

Councilor Powers asked if there can be concrete along the bridge span, and steel along the portion of the wing walls/channel walls to be replaced. Mr. Rusnock said it is definitely an option but would likely be more expensive to use both materials. He added

that staff will present the options to Council at a later date for formal approval. The Commission (with the exception of Mr. Porchitz) thought generally that the decorative concrete rail fit the character of the City best. Mr. Rusnock added that the new bridge will be 22' long, the two sides will be precast units with the bottom cast in place, and that the existing channel and new bridge will not change water flow. The sewer line under the channel will be replaced and lowered to remove the existing dam at the bridge and improve fish passage. There will still be sidewalks on both sides of the bridge; this project corresponds with Roxbury Street roadway improvements included in the 2020 Capital Improvement Program.

Ms. Brunner reminded the Commission that the project is not subject to any particular HDC regulations, and that the purpose of this discussion was to present the project and gather input. The Commission thanked Mr. Rusnock for the presentation.

- 6) Keene Building Better Together Project - Senior Planner Tara Kessler will provide an overview of the City's efforts to update its zoning and permitting processes to create a simpler and more efficient experience for all. To learn more about the project, called "Building Better Together," please visit [www.keenebuildingbetter.com](http://www.keenebuildingbetter.com).**

Ms. Kessler explained she was present to provide a brief overview of the Building Better Together project so the Commission would be better prepared to discuss it at the December meeting. She explained that the City has many land use regulations including the Historic District, zoning, development, parking, and landscaping standards, among others. Thus, when someone tries to develop or redevelop in Keene, applicants are challenged to understand what the rules are and what boards they need approval from. Most of the regulations are outdated and there has not been a comprehensive review of City regulations since 1968 (Historic District regulations were adopted officially in 2008).

She explained that within the last year, staff in the Community Development Department and beyond has followed the direction of Council and worked to make the City's land use regulations more efficient, thoughtful, and streamlined. With the help of consultants, staff inventoried all current regulations and identified opportunities to merge all regulations in one graphical, user-friendly document. The goal is to create a document that will use graphics with accompanying concise descriptions, will be better organized, reduce redundancies, and make navigating the land use regulations more efficient for developers, staff, and Council. This process was also an opportunity to question the relevancy of all regulations; for example, some are old and thus conflict with current state laws or some may not serve public interest currently the way they did when established.

Ms. Kessler continued explaining that this land use code update will affect the HDC because zoning updates are proposed to improve downtown as it progresses in the 21<sup>st</sup> century. She explained that the consulting firm, which has worked on zoning updates nationwide, has conducted forums and interviews with Keene's downtown stakeholders. The consultants conducted studies in Keene in summer 2018 to understand site

conditions, building heights, setbacks, and defining downtown characteristics. They returned with a technical summary for the community to consider in decision making. She shared a packet of information with the Commission; she indicated some ideas in the packet might not be what Keene needs or wants, but we need to hear from the community and Committee's that have a judicial role in these changes.

Ms. Kessler explained that staff hopes to complete the new land development code and present it to Council in spring 2019, which will start the adoption process. If the community needs more time to consider the proposed ideas, staff wants to provide the public, impacted neighbors and the HDC more time. In the meantime, there will need to be continued review of the HDC regulations, which the Commission has already been working on. In the document she shared, there was a proposal from the consultants to remove standards related to *new construction* from the HDC role and review authority. Instead, the new land development code would better clarify standards in the zoning ordinance related to building conformance with the surrounding area. New construction in the Historic District is not meant to mimic historical structures but to complement the historic area. Thus, through updating the downtown zoning ordinances, there is the opportunity to create a more predictable process for applicants; instead of going to both the HDC and Planning Board for new construction, applicants will only need approval from one board. She added that Keene will be unique if this modern, updated downtown zoning (form-based zoning) is adopted and will be the first town in NH with one, unified development code. Other towns in NH with similar form-based zoning include Dover and Portsmouth.

Commission members agreed to review the summary material Ms. Kessler provided, to visit [www.keenebuildingbetter.com](http://www.keenebuildingbetter.com), and to contact Ms. Kessler with any questions before the December meeting. Ms. Brunner will put this on the December agenda and Ms. Kessler will facilitate a more in-depth and engaged discussion. She is willing to meet with any Commission members one-on-one before the December meeting to help explain any technical information in the summary.

Finally, Ms. Kessler informed the Commission about an upcoming Zoning 101 forum on December 4 (6:30-7:30 PM at The Hive, 25 Roxbury Street). At this forum, staff will engage the public in hands-on activities to test some of the zoning concepts proposed and try to make those concepts more relatable for the public.

## **7) Staff Updates**

### **a. Late Applications for a Certificate of Appropriateness**

Ms. Brunner recalled the retroactive approval request for 34 West Street that the Commission heard at the October 3, 2018 meeting. At that time, the Commission discussed concerns about retroactive approvals when the work has already been completed. Per the Commission's request, Ms. Brunner consulted with the City Attorney and reported the following guidelines for the Commission when faced with a retroactive approval request:

- Even if the work is already complete, the role of the Commission is to review retroactive approval requests on their merit solely. The Commission should approach these requests as if the work has not occurred yet, and approve or deny the work based on whether it meets the HDC regulations.
  - The Commission should avoid approaching these requests with the attitude that because the work is already complete, they are forced to grant retroactive approval. In addition, the Commission should not make punitive decisions (deny the request the punish the applicant for doing the work first).
- If the Commission denies a retroactive approval request, the applicant can either:
  - Return the site to how it was before and face daily fines potentially until it is complete, or
  - Appeal the decision to the Zoning Board of Adjustment (ZBA):
    - If the ZBA upholds the HDC decision, the matter will go to the superior court.
      - If the superior court finds in favor of the City, the applicant must return the site to how it was before and will face daily fines until it is complete.
    - If the ZBA decides in favor of the applicant, the decision is final and the site is not subject to change.
- The Code Enforcement staff follows a similar enforcement process for the HDC as does other parts of the City. When staff learns of a violation they notify the person to make sure they are aware they need approval and are ready to work with them to rectify the situation. A person will usually come for approval once they are made aware they are in violation.
  - For Building Permits, applicants are charged a late fee for retroactive requests. Applicants are also required to demonstrate they met City code, which might require exposing completed work or producing a signed affidavit from the project engineer.
- Finding the most agreeable solution mutually is the best way to approach retroactive approval requests. The Commission has the most influence when applicants come and try to work together with the City. The denial and appeal process is costly and lengthy for the City.
- A majority of voting members present for any of these decisions must vote to deny a request.

Ms. Brunner said there have been few instances of retroactive approval requests to the HDC; in those few instances, applicants have worked with staff to rectify the situation with HDC approval. Ms. Benik said her main concern is that a serious change will be made to a building that detracts from its historical character; if there is no good way to rectify that situation, the City loses character as well. She said it sounds like there is not much the Commission can do. Ms. Brunner said it depends if the applicant chooses to appeal the HDC decision, and how that appeal process ends. If the applicant is denied retroactive approval by the HDC and their appeal to the ZBA is denied, they must revert the site to how it was before construction or face daily fines. In some cases, there are no ways to return the site to preconstruction quality if, for example, a tree was removed or a

destroyed item cannot be replicated. Ms. Brunner suggested the Commission can consider a late application fee as well to encourage compliance before construction.

Depending on member availability, the City Attorney will have a 15 minute non-public meeting with Commission members before the next meeting to review the Commission's judiciary role in the City and provide any further legal counsel. The Commission agreed this is the best next step in an ongoing discussion.

**b. Committee Membership**

Commission members agreed to table this item until the December meeting.

Ms. Kimball Frank questioned if the Walldogs organizers confirmed if the Courthouse is on the National Registry of Historic Places; she questioned if the HDC should investigate that in addition to the organizers. Ms. Brunner replied the organizers have not confirmed yet but are on the record saying they will not paint on that wall if it will affect the building's listing on the Registry.

**8) Next Meeting – December 19, 2018**

**9) Adjournment**

Hearing no further business, Chair Weber adjourned the meeting at 6:24 PM.

Respectfully submitted by,  
Katrana Kibler, Minute Taker

Reviewed and edited by Mari Brunner, Planning Technician