



The City of Seattle

Pike Place Market Historical Commission

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MINUTES

MHC 9/22

Wednesday, March 23, 2022

4:30 p.m.

Virtual meeting via WebEx

COMMISSIONERS

Chris Bown
Sam Farrazaino
Grace Leong
Lisa Martin, Chair
Lauren Rudeck, Vice Chair
Christine Vaughan
Stephanie Young

Staff

Minh Chau Le
Melinda Bloom

Absent

Michael Hammond
Golnaz Mohammadi

Chair Lisa Martin determined that a quorum was present and called the meeting to order at 4:30 pm.

She reminded Commission members to announce any conflict of interest or ex parte communication prior to review of applications.

In-person attendance is currently prohibited per Washington State Governor's Proclamation No. 20-28.5. Meeting participation was limited to access by the WebEx Event link or the telephone call-in line provided on the agenda.

032322.1 PUBLIC COMMENT

She said the Market is an amazing treasure of Seattle largely because of the original framework under which the MHC was created. Many districts focus only on architecture where the MHC was delegated to preserve the character of the Market. She said administrative review process was needed during Covid. She said once lost, Market details would be impossible to get back.

Kate Krafft, former MHC coordinator said the public was not invited to review the draft. She asked that when drafted, a full public hearing with proper public notice with full clarification on legislative changes to adopted MHC procedures per Ordinance. She said she was

Administered by the Historic Preservation Program Seattle Department of Neighborhoods

"Printed on Recycled Paper"

seriously concerned about undermining by the City leadership of DON's Historic Preservation program. She said it is essential that MHC continue as it has for 50 years.

Peter Steinbrueck said he has been following the administrative intervention of quasi-judicial legislative role. He said MHC was set up as a quasi-judicial authority with staff support. He said a firestorm will be raised if DON refuses to acknowledge the quasi-judicial role of MHC.

Ernie Dornfield, President of board, Friends of the Market:

I'd like to address proposals to replace the Historical Commission's decision-making process with an administrative approval process. We haven't seen a concrete proposal for legislation that would make this change. So I'll talk about the administrative approvals that have happened in the last two years. The pandemic-related changes to approval in the Historical District were enabled by ordinances that defined a list of proposed changes that could be approved administratively. This Commission regulates use and ownership in the Market, as well as design changes. Use and ownership are not in the list of changes that the emergency ordinances permitted to be approved administratively. Nevertheless, administrative approval has been granted for such changes. The citizens' initiative that saved the Market from the wrecking ball created the Historical District and created the Commission you sit on to maintain its character. This happened because the Mayor and City Council, at the time, showed that they could not be trusted to look out for the interests of the Market. They had all supported the wrecking ball method of "saving" the Market. A volunteer commission, supported by City staff, was to be the Market's guardian. This Commission has existed for fifty years. Through its development of guidelines, and by applying them, it has maintained the Market's character. Keeping decisions about the District public, through the committed involvement of community volunteers, the Commission has kept the Market the most vibrant and authentic place in downtown Seattle. Let's keep the Commission's decision-making role intact.

Skip Knox: said he would read his written comment into the record with an added preamble. A number of people who have been nominated to serve on this board, whose nominations have languished and they finally gave up. He said you have citizens who are willing to serve a place that is unique that provides legislative authority for a commission. He said it is unlike any other commission. He said for people who are willing to put their names up, he apologized. He appreciated those who have been nominated and have served past their expiration date. DON, in concert with other parts of city administration have both suffocated and starved this commission to death the past five years by not moving nominations through the city mechanism so that people can serve knowing they have some authority and some respect. He acknowledged those who have served way beyond their time. He said with half a commission appointed and half present, it doesn't work for the entire commission. That is abuse of well-meaning public volunteers. It is clear too that the city administration over time with a succession of department heads in DON and the mayor and city council members have looked for ways to get rid of this commission because they don't want competition for making legislation. I am in vigorous opposition to an unrelenting campaign by the Department of Neighborhoods, in concert with certain other city agencies, to nullify the citizenry's ability to maintain control the mechanics of governance. In particular, I refer to the Department of Neighborhood's (DON) attempt to permanently take over authority and responsibility for decisions by the Pike Place Public Market Historic Commission (Commission) on applications for Certificates of Use; a brazen heist of the built in insurance policy to keep the Market free from corruption. As set forth legislation

ordinance which preserved the Pike Place Market of all time in public ownership; to wit, "ADOPTED NOVEMBER 13, 2013 PIKE PLACE MARKET HISTORICAL COMMISSION REVISED GUIDELINES "...1.3 The Commissiondecides on all applications for Certificates of Approval involving changes in use (including changes in ownership) and changes in design within the Historical District." This is not ambiguous language! Granted, Covid-19 brought on unprecedented challenge to carry on necessary administrative functions and may have, early on, legitimized temporary—temporary—suspension of the Commission managing applications for Certificate of Approval. Even so, the Commission did not request assistance or relief of its responsibilities or authority; it was imposed under the guise of the "...job would be too much burden for the Commissioners to manage via virtual meetings." Oh, please! President Thomas Jefferson said: "I know of no safe repository for the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to increase their discretion by education." DON, on the basis of an ongoing survey of suspect legitimacy (and who knows what other sham evidence), intends to permanently subsume vital aspects of the commission's work into DON's bailiwick. After alternately starving and suffocating the Commission and overreaching its authority for the past five years, maybe longer, DON is now engaged in empire building. PURE AND SIMPLE. One is reminded of 1800's New York political scoundrel, one Thomas C., "Boss" Platt, who said of himself: "...I seen my opportunities, and I took'em!" Or was it Putin who said "I see Ukraine, and I am taken'em!" Charges: 1. DON failed to effectively advocate with a succession of Mayor's to approve and send to City council enough appointees to keep the commission at full strength. So all of the work has been done by half of the number of commissioner on board. 2. Several Commissioners have served way past the expiration of their four-year terms. 3. Ordered by the City Administration to develop an Equity Program, the Commission complied. The Program has languished without action for five years in the City Attorney's office, and DON has either done nothing to exhume the program to the light of day, clandestinely let it molder without raising the issue with the Mayor or City Attorney, or been ineffective in advocacy for resolution of the issue. Why would any thinking citizen volunteer for this unpaid job? Certain mid-level DON staff have been in the saddle so long they act like think own the horse. It is time to change horses. The department of Neighborhoods should abandon this naked ploy to further hide from the public the right to not only see the sausage ground, but to have meaningful opportunity to take part in the doing and to do so in a manner transparent and accountable to itself. In the aftermath of the 1972 Presidential scandal known as Watergate, the citizens of Washington State made crystal clear demand that government operate in the open: "RCW 42.56.030 The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created."

Ms. Le read into record the public comment provided by Margaret Pihl, Friends of the Market:

It's understandable that there was an intention to make the review process easier during the pandemic. It's my understanding, however, that the overarching goal of the emergency ordinance was to make sure that it was possible to continue building affordable housing during the pandemic. Whereas the International District and Pioneer Square have opportunities to add more housing, there is no room for additional housing

to be added in the Pike Place Market Historical District, so it should not have been included in that legislation. The Market Historical District and the Market Historical Commission's role and authority were established by public initiative in 1971. The public initiative, which included the ordinance, set in place regulations to be sure that there is ample public oversight at the Market, to ensure its preservation. The emergency ordinance, which assigns some changes to be approved administratively by staff, undermines the Commission's authority, and also public oversight over the district. When staff approves a change administratively, there is not only no input from the Commission, there is no input from the public. There also is no opportunity for the public to appeal a decision made by staff. It would be awkward for a Commissioner to appeal an administrative review. Oversight of preservation of the Market must remain public and include the public. This means that decisions made about preservation of the Market must take place at open public meetings, not in an office. The Market Historical District is far smaller than the other historic districts, only three blocks long. Changes to signage and lighting might be considered minor changes in other historic districts that are larger and have taller buildings, but in the Market, even these changes can negatively impact the character of the Market. Additionally, the changes on the list allowed for administrative approval by the emergency ordinance are addressed in the Commission's Guidelines. It makes no sense to subtract particular changes called out in the list from the scope of the Commission's authority, when the Commission already reviews interior and exterior changes to businesses and buildings, and street use. Continuing to allow administrative approval of changes currently listed on a temporary basis (due to the pandemic) not only diminishes the Commission's authority, it erodes the character of the Market. These are my concerns about the existing, allowed administrative review per the emergency ordinance, as listed per 25.24.070 C 1-15. The Commission needs to retain its full authority over changes in the Market, with exceptions made for in-kind maintenance and repair. I have additional concerns: The emergency legislation's loosening of the Commission's ordinance appears to have created a "loosey goosey" review environment in the Market Historical District. Not only has the Commission's authority been undermined, but also, new businesses, changes in ownership, changes in use, 2 expansion of use and interior alterations have been approved administratively, none of which are allowed by the emergency ordinance. Secondly, two businesses opened without any approval except from the landlords. One opened last April and eight months later, was finally hauled before the Commission after SDCI sent a Notice of Violation to the landlord and the tenant. The Commission denied the application, which has resulted in an appeal, with attorneys involved. In the meantime, the business is allowed to operate. That is no way for a business to get into the Market! The second business opened in December and continues to operate. The business owner has three similar businesses outside the Market, with similar, if not identical menus. To me, this means that the loosey-goosey-ness resulting from the emergency ordinance has resulted in a chain opening at the Market. Proposing legislation to continue administrative approval beyond in-kind maintenance and repair in the Market Historical District is unacceptable and inappropriate, because it undermines the authority of the Market Historical Commission and removes public oversight because there are no public meetings about the proposed changes. The Commission needs to retain its full authority.

Ms. Le read Skip Knox's written comment into the record.

032322.2 NEW BUSINESS

032322.21 Discussion of proposed legislation related to land use review decisions and meeting procedures.

Ms. Martin thanked commenters. She said her family has been in the Market for three generations and it is a beloved community. She appreciates the love and concern for the Market, and said it is an honor to serve on the board and be part of the community. She said Ms. Le would give background on how this Ordinance went into place and what it is so Commissioners can understand where it came from.

Ms. Le: said she would, to the extent of her ability knowing that her job as Commission and District coordinator does not specialize nor has expertise in the legislative area. She said she would provide a summary of what she can confidently say she does know. She said there has long been legislation in place that defines the MHC as being the sole decision-maker for changes of use and design. The Code provides the authority of the Commission to review and approve or deny changes to use and design within borders of the District. She said Covid necessitated changes to keep city services moving and early 2020 emergency legislation creating temporary legislation that allows administrative review and approval went into effect. She said it allows for staff to review and approve or deny certain limited types of proposals, a prescribed type. She said that is a deviation from existing long-term legislation that was established in the 1970's. She said that was written and set to expire in six months. She said Covid continued, and the temporary legislation was replaced in the fall of 2020 with a similar Ordinance granting administrative approval processes and set to expire a number of days after mayor cancels the City of Seattle State of Emergency. She said expiration is tied to a date we don't know yet.

She said there are some who are interested in the benefits of administrative approval and lessons learned and the feedback we have gotten and are now seeking to make the legislation permanent. We are in an information-gathering stage where nothing has been drafted. A survey has been sent out. She said there is the intent to create permanent legislation but we don't know what it looks like exactly and are seeking community input and gathering information to make sure the final product is effective as possible.

Ms. Martin: When will draft ready?

Ms. Le: Not an exact time frame, but several months out before writing anything. Now gathering information and feedback.

Ms. Martin: Good reference point for everybody to understand. This is an opportunity to discuss and say what has worked and what hasn't. This will be on the agenda again and she hopes DON will come talk to MHC after they gather survey information. Each historic board will be constructed differently and MHC can offer input on how to structure its legislation suggestion. Asked commission members to complete survey.

Ms. Vaughan: Outreach was done behind closed doors without appraising MHC. MHC should be the first source tapped. But it's happened before. Feel strongly about this. Understand emergency provision especially regarding affordable housing. Administrative

review of street cafés. Initial Ordinance written to expire when virtual meetings were established. Virtual meetings are established. MHC is now meeting in public way; sandwich boards proliferate without approval. Undermining is concerning. Lack advertising of vacant spaces. DON can't without mayor's OK, but don't know for a fact. Allied Arts – it took so long that people moved on; it weakens the commission where new commissioners learn from old commissioners. She has heard people say 'just change the rules' and noted that guideline changes have been at the City attorney's office for about 5 years. City Council required commission to add a racial equity statement – it took three years for DON to provide training about how to draft it. City Council gave the task in 2015 and it is still not completed.

Ms. Martin: That existed prior to this so it is not really tied to this.

Ms. Vaughan: Relating it to an undermining of the authority and the functioning of MHC. Administrative review is part of a whole. It is part of MHC asking for assistance that it doesn't get. It is part of administrative review being given for use and design during Covid – it is concerning because it is beyond the scope of what the emergency legislation said.

Ms. Martin: MHC can define what it wants and could make suggestions on what would be acceptable or not. Never use, some design. Do you see any benefit to having anything reviewed administratively?

Ms. Vaughan: It is easier for DON to do administrative approval. Easy doesn't mean good historic preservation. Cumulative small changes can make big change. Repair/restore in kind doesn't require review. Any change should come before the commission. Return to full regulative authority, all design, all use. Remote access – Webex is a terrible platform; the rest of the world uses Zoom. Webex shuts out those with older equipment. Take MHC out of legislation for administrative review; everything reviewed by MHC.

Mr. Bown: Expired terms; commissioners serving over time limit, starting term late because of process. He spent a lot of time learning about MHC and then term is up. MHC has charge of maintaining character. Now that is being stripped away and not what he signed up for. Covid is an excuse. He uses Zoom all the time. What does 'temporary' mean? Proliferation of sandwich boards is problematic. More information is needed – what is the point of proposed change? Why is decision-making being taken away from MHC? Why have MHC if decision-making is taken away? What has changed so much?

Ms. Martin: Was told it is to reduce regulation, barriers, simplify process, lag in process. Commissioners don't always see what goes on. Understand as a landlord must have approval by MHC before lease can be signed and could lose a tenant. It can be a deterrent. Wants MHC to do well.

Mr. Bown: In real estate for 20 years now; if coming here, make sure to meet all requirements. I get it but don't get it. I get the lag, when you move in anywhere.

Ms. Martin: Would like to invite John Turnbull to speak and provide input on his take on this issue.

Mr. Bown: It is the issue of efficient functioning of the MHC. If there is a lag, then fix all the lags. When serving a board and you are in charge of those who are serving on a board, you should make sure everything is done to make sure those folks can serve to their ability. He said it has taken at least 14-15 months before he knew what he was doing and time is lost by the process.

Ms. Le: Mr. Bown asked what the difference is between now and 50 years ago. A useful way to look at it might be that the people who wrote legislation might be thinking along a certain track like a District that is really busy with development, light rail, who don't want to discuss signs. Legislation speaks to different districts.

Ms. Vaughan: Comments are only about MHC, not other districts. There may be very good reason for other districts. In a small district those things add up; take MHC out of legislation. If a lag then come to MHC; add a meeting; fix lag, not take authority away.

Ms. Leong: Concerned about precedent. Decisions being made without MHC input and what MHC upholds going forward. All members might not be aware of decisions made during administrative review.

Ms. Martin: Didn't know of all administrative reviews made.

Ms. Leong: Some may be streamlined. Because of complexity of Market, can't fit into a checkbox. Suggested some decisions / issues to MHC then could flag for administrative review.

Ms. Martin: Open to some administrative review?

Ms. Leong: Yes. Strictly defined or at discretion of MHC.

Ms. Rudeck: Frustrated with administrative review. A sneaky way to dissolve Historical Commission. Helpful for temporary street use for cafés but inappropriate for full design. Lots happening in the Market without MHC review. New business in MHC without MHC review. Supposed to be a diverse group. One person deciding negates or takes out 12 voices.

Ms. Martin: Great to have different viewpoints.

Mr. Farrazaino: Agree with most. Integrity and continuity of MHC intended by founders should be carried on. It is not just buildings, but the way things are done. MHC successful because it maintains relations between individual and community through this forum. Good especially with newcomers to teach them the process, spirit and intention, history, relationship to neighbors and city. 12 people preferred over one, stay in full force. Easy to review, simple answers. Folks we want to be part of Market will engage in the process. If that is too much, they can rent down the street. If they want to be here, they will engage. The legal issues, lack of relationship with Market, didn't come through this process. Do not subvert commission.

Ms. Young: A newer member. Disappointed to see decision-making done via administrative review. Don't feel it's useful. A process could be addressed in some way. Don't view MHC as a roadblock to progress or in the way? Many weeks with no meeting – why is that yet we

hear that 'we are in the way'. Would rather see DON resources to help applicants prepare packet rather than administrative approval. Some room for administrative approval but narrower scope than now. A fairness issue. How approval is done – one person versus multiple dilutes authority of Commission to have flexibility to make decisions. Not meeting frequently enough – with virtual meetings can meet more without having to go downtown. Don't see much coming through. If administratively processed, it should be more transparent than it has been.

Ms. Martin: Didn't see administrative approvals – could board respond to them?

Ms. Young: Some processes could be put in place, involve MHC.

Ms. Martin: Fill out the survey. Concrete, constructive suggestions. Sarah Sodt will come talk to MHC. Anxious to hear what others think about process. Thanks to all who serve.

Ms. Leong: Appreciated MHC and what is brought to Market and to City. Onerous to have applicant go through MHC, but think what would it be like without MHC review process.

Ms. Martin: Honor to be on MHC; shouldn't be easy to get on.

Ms. Vaughan: Encourage a look at how to streamline needs of commission. Guidelines – why must they be totally written before legal review?

Ms. Le: No meeting next week. Applicants can't be scheduled until applications are deemed complete.

Ms. Young: Give MHC more resources. HP is short-staffed. Survey, who got it? How many were sent out?

Ms. Le: One survey went out to all historic boards, commissions, all applicants during past two years. Not sure if it is encrypted – if it can be forwarded. Specific, narrow questions. Third party consulting company did survey. Survey closes on Friday, not sure when data ready.

Ms. Vaughan: A narrow interpretation of stakeholders. Broader public has something to say.

Ms. Martin: Survey is on process, not Market itself. Not sure how general public could comment.

Ms. Le: DON can provide information on approach and rationale for outreach.

Mr. Farrazaino: There is limited public outreach, a small comment period. No impact to city process / outcome. This is a city resource.

Ms. Le: Will pass on to Sarah Sodt so she can field questions at briefing.

Reminder: agendas are sent out by a centralized service; add it to your safe list so it doesn't go into junk / trash folder.

Adjourn 6:30 pm.

Minh Chau Le
Commission Coordinator
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