



# TENNESSEE HISTORICAL COMMISSION

## Meeting Minutes

October 16, 2020

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The Tennessee Historical Commission (THC) met virtually via Webex following the Governor Lee's Executive Order No. 65, which extended the timeframe allowed for meeting by electronic means due to the ongoing coronavirus pandemic. *All attachments referenced herein were sent to the Commission along with the agenda one week prior to the meeting.*

Members present were Madam Chair Derita Coleman Williams; Vice-Chair for East Tennessee Allen Carter; Ernie Bacon; Beth Campbell; Dr. Douglas Cupples; Dr. Kent Dollar; Sam Elliott; Jeremy Harrell; Loni Harris; Cato Johnson; Tiny Jones; Lucy Lee; Dr. Bill Lyons; Doris McMillan; Linda Moss Mines; Joanne Moore; Dr. Keith Norman; Beverly Robertson; Don Roe; Ray Smith; and Judge David Tipton. Also attending were ex officio members Don Johnson, Director of Constituent Services & Community Relations for the Office of the Governor; Mike Moore, State Archaeologist; Gerald Parish, Commissioner Salyers' Representative and TDEC Division of Recreation Educational Services Director; State Librarian, Chuck Sherrill; and State Historian, Dr. Carroll Van West. Toye Heape joined later during the meeting, and Dr. Norman left early for a previously conveyed commitment. Communications explaining their absences were received from Joseph Swann and Kelly Wolfe. Staff members present were Patrick McIntyre, Executive Director and State Historic Preservation Officer; Dan Brown, Historic Sites Program Director; Susan McClamroch, Tennessee Heritage Protection Act and Outreach Specialist; Graham Perry, Cemetery Preservation Program Specialist; and Ashlee Pierce, Administrative Secretary.

Madam Chair Williams called the meeting to order and informed that all votes would be conducted by roll call. The roll was called, and a quorum was present.

### **B. APPROVAL OF MINUTES FROM JULY 2020 MEETINGS**

Madam Chair Williams stated that minutes from the previous regular and special meetings were included in the packet emailed and mailed out to members. First, the minutes from the rescheduled summer Webex meeting that convened on July 10, 2020 were considered for any additions or corrections.

#### Motion

Mr. Elliott made a motion to approve the minutes and Mr. Cato Johnson seconded. A roll call vote was conducted. Motion passed.

The minutes from the July 24, 2020 special meeting were also considered.

### Motion

Mr. Elliott made a motion to approve the minutes and Mrs. Campbell seconded. A roll call vote was conducted. Motion passed.

## **C. TENNESSEE HERITAGE PROTECTION ACT**

### **Initial Hearing - Forrest, Farragut, and Gleaves Busts**

Madam Chair Williams noted that the next item on the agenda was the initial hearing on a petition filed on behalf of the State Capitol Commission, which was pursuant to the Tennessee Heritage Protection Act. A waiver has been submitted by the State Capitol Commission to request moving the busts of Nathan Bedford Forrest, David Glasgow Farragut, and Albert Gleaves from their current placement on the second floor of the Tennessee State Capitol to the Tennessee State Museum. Madam Chair Williams called the Commission member's attention to copies of a letter provided to them received just two days prior from the Honorable Randy McNally and the Honorable Cameron Sexton. She advised that the initial hearing today is procedural, and its purpose is to identify interested parties that should be notified of the waiver of petition and the right to intervene. Madam Chair noted the media attention on the matter and that it was uncertain as to how the controversy between the State Building and State Capitol Commissions would affect the February meeting for the Tennessee State Commission. She noted that legal counsel will continue to advise the Commission on how to proceed as new developments occur, but that the possible outcomes of the petition for waiver were that the court could tell the THC what to do, or the Building Commission could intervene and an administrative law judge (ALJ) could decide the issue as part of the waiver hearing in February. She also noted that if the Capitol Commission were to decide that the Building Commission's point is correct, it could withdraw its waiver and petition. A final outcome could be that the Commission would continue with the February hearing as scheduled. However, she concluded, the letter should not impact the current hearing's purpose. Madam Chair Williams then opened the floor to discussion.

### Motion

Mr. Elliott concurred with Madam Chair Williams statement of the purpose of the hearing and motioned to proceed with the hearing as it is already set. Dr. Dollar seconded and a roll call vote was taken. Motion passed.

Madam Chair Williams wanted it noted that due to the timing of the letter from Senators McNally and Sexton and the limitations placed on it, there was no way to get the letter to the members in a timely fashion. Dr. Norman informed the Commission that he would have to leave soon for a previously scheduled commitment and requested the Monument and Markers Committee report to be moved up in the agenda. Madam Chair Williams agreed. She then introduced Jaclyn Mothupi, with the Tennessee Dept. of Environment and Conservation, to serve as moderator for the hearing. Mrs. Mothupi reviewed the reason for meeting remotely and gave a brief detailed overview of the purpose and scope of the hearing. She also reviewed the legal requirements for the next hearing, stating that it has to be conducted at a regular meeting. The future date of the February 2021 hearing and meeting was scheduled for two days, February 18<sup>th</sup> and 19<sup>th</sup>, a Thursday and a Friday, to ensure there is plenty of time available for both the hearing and the meeting. Commission members were provided copies of this petition for waiver prior to the meeting. Included in the petition was an Excel spreadsheet listing the names and

addresses of private entities, groups, or individuals that the Capitol Commission identified as parties that may have an interest in receiving notice of this petition.

Motion

1. Mrs. Mothupi asked the Commission members if they knew of any additional parties that may have an interest in receiving notice of the petition. Mr. Elliott gave three group names and Madam Chair added Senators McNally and Sexton, along with the Building Commission. Mr. Elliott motioned to add the entities just mentioned by him and Madam Chair Williams, along with those provided by the Capital Commission to the list to inform. *(A separate list with names and information is filed with these minutes.)* Mrs. Mines seconded. Mr. Joseph Sanders, Senior Legal Advisor from the Office of General Counsel, TDEC, reminded the Commission that they also need to receive suggestions from the public commenters. Mr. Elliott rescinded his motion and Mrs. Mines her second, in order to hear the suggestions from the public. Discussion ensued. Mrs. Mothupi opened the floor to oral comments, calling upon individuals in the order of submission. Those that submitted a request to comment by 2pm on October 15th, 2020 as indicated in the Public Notice were called upon. The following individuals spoke and offered comments: Jim Wohlgemuth, Mina Shedd, Benjamin Sawyer, Allan Ramsaur, Justin Jones, Tristan Call, Mark Buchanan, Lynn Egan, Suzanne Merlino, Ruth Reeves, Elizabeth Coker, Jama Mohamed, and Lee Millar.

Thirty-five written comments were also sent by the public in advance of the hearing to the ASKTHC@tn.gov email address. Of this number, only three addressed the purpose of the hearing, which was to identify potential stakeholders. Following the oral comments from the public, Executive Director McIntyre reviewed the names provided by both in writing and during the public comment period. Madam Chair Williams requested for those that gave public comments to email ASKTHC@tn.gov and provide the names and addresses of those they wish for the Capitol Commission to contact. Mr. Elliott then motioned that everyone that has requested to be added, subject to the provision that by the close of business Monday, that they provide names and addresses for the groups that they suggested to be added sent to the ASKTHC email address. There was discussion on some of the names provided. Dr. Norman seconded the motion. A roll call vote followed. Mrs. Jones interrupted to inform she had been on the call since the beginning of the meeting but had some technical difficulties and had been unable to be heard until now. Motion passed.

Madam Chair Williams thanked everyone for their cooperation and participation and adjourned the hearing.

***Discussion of Special Meeting, Appeal to the Commission of Coker v. Franklin APD Case No. 04.47-201126J***

Madam Chair Williams gave an overview of Ms. Elizabeth Coker's Appeal to the Commission of Coker v Franklin APD Case No. 04.47-201126J. In this case Ms. Coker alleges that the City of Franklin violated the Heritage Protection Act by erecting certain signage near the statue on the Franklin City Square and the Williamson County Courthouse. The Commission referred this case to an Administrative Law Judge to render an Initial Order. The City of Franklin filed a Motion to Dismiss. The Administrative Law Judge ruled that based upon the pleadings, the arguments of the parties, and the record, that the City's Motion to Dismiss was well-taken and issued an Initial Order of Dismissal. Ms. Coker filed a timely appeal to this Commission.

Pursuant to Tennessee Code Annotated section 4-5-315(e), The agency (in this case the Commission) shall afford each party an opportunity to present briefs and may afford each party an opportunity to present oral argument.

Chair Williams noted that at this time, the Commission needed to decide how long it wants to give the parties to present briefs and if the Commission wants to hear oral argument. She stated that if the Commission wants to hear oral argument, it would need to set a date and time for that oral argument which needs to be after the date set for the parties to present briefs. Pursuant to Tennessee Code Annotated section 4-5-315(h) a final order must be rendered and entered within sixty days after receipt of briefs and oral argument (if it is allowed).

#### Motion

Mr. Elliott motioned, relative to the briefs, to allow the parties sixty days to present the briefs. He suggested that since Ms. Coker is the appellate that she present her brief on December 16<sup>th</sup>, and the City of Franklin present their counter-brief on January 6<sup>th</sup>, allowing for the holidays. Mrs. Harris seconded. Mr. Elliott amended his motion to include these dates and then to set a date for final hearing, and at that final hearing allow both sides fifteen minutes each to present argument. Discussion ensued with legal counsel, Mr. Sanders. Due to comments made by Mr. Sanders during the discussion, Mr. Elliott suggested allowing the office staff to set a special meeting for the oral arguments sometime the last week of January, but then give until the last of March to render a decision. Mr. Sanders commented by advising that another Administrative Law Judge will be needed, and for a hearing to be placed on the agenda for the February board meeting for the purpose of setting the date for a hearing. Mr. Elliott agreed and amended his motion to reflect the advice of Mr. Sanders. Mrs. McMillan seconded. Discussion ensued with Mr. Sanders again. A roll call vote proceeded. Motion Carried.

Madam Chair Williams announced a short break prior to the beginning of the main portion of the meeting and adjourned the hearing.

#### **D. FINANCE COMMITTEE**

The meeting continued following a roll call with Mrs. Campbell presenting the Finance Committee report. She explained that there is not a financial statement available for the meeting due to the person who prepares the reports being out for an extended period. While exceedingly rare, it is not unprecedented to not have a statement. She thanked the Commission for its understanding. Elements of the budget including the state historic sites and Wars Commission budget were approved in July, but the full budget for 2020-21 still required approval.

#### Motion

Mrs. Campbell made a motion to approve the 2020-2021 budget and Mr. Elliott seconded. A roll call vote transpired, and the budget was approved unanimously. Motion passed.

#### **E. PUBLICATIONS COMMITTEE**

Mr. Toye Heape, Chair of the Publications Committee, updated the Commission of the Tennessee History Book Award. He noted there had not been any nominations yet, nor could he determine that many books on Tennessee history were written this year. Madam Chair Williams noted that today was Ms. Ann Toplovich's last day as Executive Director of the Tennessee Historical Society, as she is retiring after serving more than 30 years. She often attended THC meetings and would bring Tennessee Historical Society publications for all the members before their public distribution. Mr. Elliott requested for Madam Chair Williams to write a letter to Ms.

Toplovich expressing the THC's appreciation of her service and cooperation with the Commission. Madam Chair Williams agreed and said she would look into the Certificate of Merit Awards and see if there is a place where she could be acknowledged as well.

#### **F. HISTORIC SITES COMMITTEE**

Madam Chair Williams requested Mrs. Robertson acknowledge Mr. Brown, Historic Sites Program Director, so he could review the Historic Sites report. (*Attachment F*) Mrs. Robertson recognized Mr. Brown and his work ethic, and then turned attention to him for the report. Mr. Brown reviewed the report, acknowledging the constraints and difficulties the historic sites, which are non-profits, have faced during the COVID-19 coronavirus pandemic. He mentioned the graffiti attack on the Battle of Nashville monument that was laser cleaned off, and that the merger of the organizations that administer Cragfont and Wynnewood is now complete. Madam Chair Williams recognized Mr. Brown for his persistent work ethic during this difficult time.

#### **G. MONUMENTS AND MARKERS COMMITTEE**

Mrs. Robertson congratulated Madam Chair Williams on her becoming Chair of the Commission. Taking over the presenting duties from Pastor Norman, who had to leave earlier in the meeting, she provided an overview of the Monuments and Markers program. Mrs. Robertson asked if anyone had any concerns, issues, or revisions to offer with any of the markers and relayed all the names of the marker requests. Mr. Elliott and Mrs. Lee noted some corrections.

#### **Motion**

Mrs. Robertson moved to accept the recommendations of the Markers and Monuments Committee with noted revisions. Mr. Cato Johnson seconded. A roll call vote was taken, and the motion passed unanimously. Motion Carried.

#### **H. TENNESSEE WARS COMMISSION**

As the enabling legislation set forth in 1994, the Tennessee Wars Commission and the Tennessee Historical Commission are one and the same. When the THC meets, this is also the Tennessee Wars Commission (TWC) meeting. Ms. Nina Scall, the Director of Programs for the Tennessee Wars Commission was not able to join the meeting today because she is representing the Wars Commission and Historical Commission this morning at the unveiling of the Tennessee Volunteer statue at our Camp Blount Site in Fayetteville. Commission members were provided with her report. (*Attachment H*)

#### **I. HISTORIC CEMETERY PROGRAM**

Mr. Graham Perry reviewed his report (*Attachment I*) and updated that he has now logged nearly 30,000 cemeteries and counting. He has been working with the Great Smokey Mountains National Park on trying to identify cemeteries within the park. Also, a team with TDEC has been working on a GIS mapping layer for the program, which following some training, he hopes to take over hopefully soon. Due to the pandemic Mr. Perry had not been able to do much outreach, but he did manage to do a radio show with Tom Price in Columbia, as well as a cemetery preservation workshop conducted by the National Park Service and a company called 48 State Tour in Greeneville, TN. He has also honed his skills in tombstone cleaning and repairing. Mr. Perry is also working on the Five-Year Recommendation Report with the Cemetery Committee members. Mr. Perry took some questions. Mrs. Harris thanked Mr. Perry for organizing the cemetery committee and all the hard work he put into it.

## **J. FEDERAL PROGRAMS REPORT**

Mr. Patrick McIntyre, Executive Director, reviewed that the Tennessee Historical Commission is a board with ex officio members that meet at least three times a year, is the State Historical Preservation Office, and is also the State agency in charge of dealing with all sorts of historic matters. He recognized the THC staff members in attendance and that we are still working from home at this time due to the coronavirus. He applauded the staff for their hard work at overcoming the difficulties involved in changing to working from home. Mr. McIntyre relayed that the Hermitage Hotel is a new National Landmark in Tennessee. He reviewed the Federal Programs Report, noting that we are nearing 50 Certified Local Government (CLG) programs, with Sevierville being the latest participant.

## **K. PROPOSED BYLAWS REVISION**

This next order of business concerned the THC bylaws. The last time they were changed was in 2013, and it concerned member absences. Members were asked to consider deleting the following sentence from Article IV, Section. 1 of the THC bylaws: "The presence of a quorum will be determined without consideration of the presence or absence of ex officio members." Our attorneys have advised us that as voting members, our ex officio Commission members are to be counted toward the quorum. This is a housekeeping measure to bring the bylaws in compliance with state law. The executive committee met by phone on September 22 to consider this change and recommends unanimously that the sentence be deleted. Members were provided notice of this proposed change three weeks in advance of today's meeting, in accordance with the bylaws. Madam Chair Williams asked the will of the Commission. Dr. Lyons motioned to delete the above-mentioned sentence. Mr. Elliott seconded, and a roll call vote was called. The motion passed unanimously. Motion passed.

## **L. NOMINATING COMMITTEE**

Commissioners Beth Campbell and Beverly Robertson and Vice Chair Allen Carter of Athens worked on a slate. Elections will not take place until February. Vice Chair Carter gave a report of the committee. He informed that Madam Chair Williams was chosen again for the role of Chair of the board, for East Tennessee Vice Chair Sam Elliott was chosen, as well as Beth Campbell for Middle Tennessee Vice Chair.

### **1. Election of Vice Chair for Middle Tennessee**

Madam Chair Williams explained that a Vice Chair for Middle Tennessee is currently needed to continue the term that expires in February. She requested a nomination from the floor. Mr. Elliott motioned to appoint Mrs. Campbell to the position for the time period until she takes office again. Mr. Carter seconded. A roll call vote was held and passed unanimously.

## **M. OTHER BUSINESS**

### **1. Report from the State Librarian and Archivist**

The State Librarian and Archivist, Mr. Sherrill, shared some visuals on the new State Library and Archives building located by the new state museum. The State Library and Archives have been located in their current building since 1953, and while they love their building, the building is not good for preservation as it cannot be adequately humidity and temperature controlled for the storage of historic documents. It also is not easily

accessible for handicapped individuals to access places such as the Reading Room. He continued to give an update on the building. Mr. Sherrill informed that they should be able to begin moving in in February and open within the first two months of April.

**2. Report from the State Archaeologist**

Mr. Hodge gave an update from the Division of Archaeology and announced this year is their 50<sup>th</sup> anniversary.

**3. Report from the State Historian**

Dr. West had already left the meeting; however, his report was in the agenda packet provided to all members prior to the meeting.

**4. Audit Committee**

The THC Audit Committee will meet prior to the February meeting. Commissioner Dr. Lyons of Knoxville will be getting that together in the next few weeks

**5. Certificate of Merit Awards 2021**

Applications for the 2021 Certificate of Merit Awards were provided pre-meeting and a press release will follow soon. Madam Chair Williams requested nominations for a worthy project accomplished this year.

**6. February Meeting**

In expectation of a final hearing on the busts, the Commission planned to meet in Nashville in February at the Tennessee Tower. Currently, due to an expectation of extended testimony, two days have been reserved for this meeting. The suggested dates for the meeting were Thursday February 18 and Friday, February 19. Should the final hearing not be on the agenda, the meeting would take place on Friday, February 19.

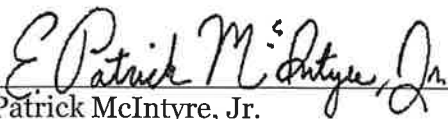
Motion

Mr. Elliott motioned to approve the dates and location presented, and Mrs. Campbell seconded. A roll call vote followed and passed unanimously. Motion Carried.

**N. Adjournment**

There being no further business to come before the Commission, Madam Chair Williams thanked everyone for their time and attention and motioned to adjourn. Mr. Elliott seconded.

The meeting adjourned at 12:30 p.m. C.D.T..



E. Patrick McIntyre, Jr.  
Executive Director



Derita Coleman Williams  
Chair

