

TENNESSEE DEPARTMENT OF
ENVIRONMENT AND CONSERVATION
TENNESSEE HISTORICAL COMMISSION

STATE OF TENNESSEE
REGULAR MEETING
TENNESSEE HISTORICAL COMMISSION

TRANSCRIPT OF PROCEEDINGS
October 19, 2018

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The aforementioned meeting came on to be heard in the Cordell Hull Building, Room 1, Nashville, Tennessee, on October 19, 2018, beginning at approximately 9:00 a.m., where the following proceedings were had, to wit :

MADAM CHAIR: I would like to call the meeting to order this morning and say that Dr. Mitchell is not able to be here. I am Senior vice chair and presiding over the meeting today.

I'm especially honored to be here in the Cordell Hull Building. Thanks, House Speaker Steve McDaniel, for serving as our legislative sponsor to be able to meet in this chamber. I had to do a little bit of reading myself to refresh my memory of Cordell Hull and all of the significance that he had for the State of Tennessee and the importance of this building, that I think maybe Patrick may allude to later; the historical importance that we're able to be here today in the building, because it was saved.

Last night we had a great view, an introduction, of the new Tennessee State Museum. I think it was our first time for many of us to visit. What an exciting opportunity and day for Tennessee for Tennessee history. It was wonderful to be there. We really appreciate Jeff Sellers of the state museum for leading the tour. We were also honored to have the new museum director, Ashlee Howell, there with us.

Then also Dan Pomeroy, the chief curator, was wandering around with us adding insight into the museum. So all of you that were not with us, you should take an opportunity while you're here to go over and see the building. There's going to be some changes made, but it's a wonderful, wonderful testament to what can be done for Tennessee history.

Also later today the Museum of Early Southern Decorative Arts is going to start a symposium here in Tennessee. The Museum of Early Southern Decorative Arts is located in Winston Salem, North Carolina. I formerly worked for them so I sort of always feel like I need to explain what they do. They are the institution that preserves, interprets and has an incredible influence on primary documentation of material culture through the south. It's a real honor to have them here in Middle Tennessee. One of the reasons they had the meeting here was because of the new state museum.

Then also the Historical Commission should be very pleased that today they're doing something called Tennessee Rambles. There are four different tour groups that are going around different parts of the state visiting historic sites and places of historic significance. Four of our properties that the Tennessee Historical Commission operates and owns will be on the rambles. There are three in Sumner County – Cragfont, Rock Castle and Hawthorn Hill – and then also they're going to be going to the

Carter House. So we're really pleased. Unfortunately none of us can be there while they're rambling through our properties so it's sort of like having visitors at your house and you're not at home. So we hope they have a great experience.

Also they will continue to have lectures tomorrow at the state museum that you can register for, if any of you are interested in looking at the site.

We're also very pleased today to have a state representative, Colonel Sam Whitson, with us.

MR. WHITSON: Thank you.

MADAM CHAIR: Thanks for being with us and being concerned and interested in our meetings.

Also we're glad to have Ann Toplovich with us from the Tennessee Historical Society, which I have to say – and you'll be proud – last night when we were walking through the state museum we did have a young tour guide and we got to an object that was the flag that is owned by the Tennessee Historical Society. I have to say at this point I do serve as vice chair of the Tennessee Historical Society, but the Tennessee State Museum houses the Tennessee Historical Society's collection of objects. So there needed to be a little clarity in our tour last night with our tour guide, but I don't think he will forget that the object is owned by the Tennessee Historical Society on his next tour. He did a great job, however.

Ann, would you like to have a minute to say anything at this point?

MS. TOPLOVICH: Well, as always I want to thank the Commission for its service in the preservation of history in the state of Tennessee. I believe Dorita is referring to the American Revolutionary War flag that is in the Tennessee Historical Society's collections. This is the first time it's exhibited, so we're really delighted that it, along with about 100 other important objects from Historical Society's collections, are there for you to see now at the Tennessee State Museum. And, as always, we thank you for your support in publishing the Tennessee Historical Quarterly. One of our upcoming issues will be focused on the Centennial of the end of World War I. We thank you so much for your support, and what you do.

MADAM CHAIR: Thank you, Ann.

Also, some other announcements are that the Commissioner – you saw in your packet a few weeks ago – Bill Landry has resigned from the Commission due to his move out of state. So he will not be with us any longer.

Also at this time I would like to recognize attorney Emily Urban, from the Office of General Counsel at the Tennessee Department of Environment and Conservation. The Tennessee Historical Commission is administratively attached to TDEC. We rely on their legal advice for our work.

Also here with her is Joe Sanders. They've gone into chambers, I guess.

Also, Patrick, at this time I think we have some of the Tennessee Historical Commission staff present with us if you will –

MR. McINTYRE: Thank you very much, Madam Chair. It's always exciting to be able to be in Nashville, among other reasons because we get to have some of the staff that's not ordinarily with us at some of our other meetings who aren't associated with state programs join us today. Before I recognize some of those who are more known to you I would like to recognize Claudette Stager, our deputy state historic preservation officer, and Rebecca Schmitt from our National Register Program. Casey Lee is from our review and compliance program. So these are federal program folks who don't often travel here as more familiar folks to you – like Linda Wynn, of course, is here, our assistant director for state programs; Kim Higher from the Wars Commission; Dan Brown with our state historic sites program; to my left, Ashlee Pierce, who helps facilitate all of these meetings.

I'm always compelled to remember as a junior staffer with the Historical Commission how much fun it was to go to these meetings and see your boss look uncomfortable. So it's kind of a nice experience to see your boss or bosses with their bosses. In that spirit I'm just delighted to have everyone here today. These are the folks who are

doing such incredible work every day on behalf of Tennessee and historic resources and preservation. I'm just honored to be a part of their team.

I was reminded – we were talking about the fact that this building – the Cordell Hull Building – was threatened very strongly by demolition a few years ago. I think some of y'all, or many of y'all, will actually remember that. We have a role in state law that allows us comment authority on buildings of historic significance that are being demolished, altered or going out of state ownership to try to work on solutions. So I pulled out a letter that we had written. Claudette and some of the others and I had a role in writing this back in 2013. I think it's significant to say – the last part says, "It seems to us that there are a number of alternatives to demolition of the Cordell Hull Building that would prosper the state while allowing it to retain one of its more significant national buildings. Our office would suggest another look at this building in terms of detailing and condition, costs and options for continued use or adapt to reuse."

So after this was a nice three-page letter that detailed the significance of this. I think it's important to take stock of successes. There were a lot of entities and individuals that ultimately were responsible for everybody coming in and saying, hey, this building is built in a way that was meant for the ages. You know, it's got that wonderful limestone exterior. I want you all to go through it and look at the marble hallways. This is clearly the sort of place that should be saved. I think when you see today how it's

been reused – the offices that look out on the capitol and just the way that this has become such a dynamic space is really a nice testament to adapt or reuse, which is a great form of historic preservation. So I just wanted to mention that while our Commission was here today, that it's a great opportunity to kind of say, hey, here is another way in which our office helped make a difference. That is really important to me. So I just will let you all kind of reflect upon that and turn it back over to our chair. Thank you very much.

MADAM CHAIR: At this time, Ashlee, I think we will call the roll.

MADAM CLERK: Mr. Earnie Bacon?

MR. BACON: Present.

MADAM CLERK: Ms. Beth Campbell?

MS. CAMPBELL: Here.

MADAM CLERK: Mr. Allen Carter?

MR. CARTER: Here.

MADAM CLERK: Dr. Joe Cupples?

(No response.)

MADAM CLERK: Dr. Kent Dollar?

DR. DOLLAR: Present.

MADAM CLERK: Mr. Sam Elliott?

MR. ELLIOTT: Here.

MADAM CLERK: Mr. Jeremy Herrold?

MR. HERROLD: Present.

MADAM CLERK: Ms. Lonnie Harris?

MS. HARRIS: Present.

MADAM CLERK: Mr. Troy Heape?

MR. HEAPE: Here.

MADAM CLERK: Ms. Tiny Jones?

MS. JONES: Here.

MADAM CLERK: Ms. Lucy Lee?

MS. LEE: Here.

MADAM CLERK: Dr. Bill Lyons?

MR. LYONS: Here.

MADAM CLERK: Ms. Linda Mossmines?

MS. MOSSMINES: Here.

MADAM CLERK: Dr. Revis Mitchell?

(No response.)

MADAM CLERK: Ms. Joanne Moore?

MS. MOORE: Here.

MADAM CLERK: Dr. Keith Norman?

(No response.)

MADAM CLERK: Mr. Don Rowe?

MR. ROWE: Here.

MADAM CLERK: Ms. Beverly Roberston?

(No response.)

MADAM CLERK: Mr. Ray Smith?

(No response.)

MADAM CLERK: Mr. Joseph Swann?

(No response.)

MADAM CLERK: Judge David Tipton?

MR. TIPTON: Here.

MADAM CLERK: Ms. Derita Williams?

MS. WILLIAMS: Here.

MADAM CLERK: Mr. Don Johnson?

MR. JOHNSON: Here.

MADAM CLERK: Mr. Brock Hill?

(No response.)

MADAM CLERK: Mr. Mike Moore?

MR. MOORE: Here.

MADAM CLERK: Mr. Chuck Cheryl?

MR. CHERYL: Here.

MADAM CLERK: Dr. Carol Van West?

(No response.)

MADAM CHAIR: Ashlee, do we have a quorum

present?

MADAM CLERK: Yes.

MADAM CHAIR: We do have a quorum present.

At this time, the minutes were sent out some weeks ago and included, again, in your packet today. Are there any comments or corrections to those minutes?

MS. MOORE: Madam Chairman, I need to ask for an addition. I was present at the last meeting and not noted on the minutes.

MADAM CHAIR: Okay.

MS. MOORE: Also there's an addition to the minutes. While Commissioner Norman was giving his report on the markers committee I commented that it had been a long standing policy of the markers committee not to approve a marker unless it's paid for. Then as a side, the reason for that is we use the money that comes in from the state to repair and replace markers. So that's where the reasoning is on that.

UNIDENTIFIED SPEAKER: With those additions, Madam Chairwoman. I'll move for the approval of the minutes.

MADAM CHAIR: Thank you. Do I hear a second?

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: If you so approve, say aye.

(All said aye.)

Next on the agenda is we will hear from the finance committee. Beth Campbell, will you now present the financial statement for this reporting period?

MS. CAMPBELL: I assume all of you all have seen the financial statement. We have funding for state appropriations of \$4,247,500, and department revenue of \$579,600, for a total of \$4,827,100. We've had expenditures, if you will look through that, and if there are any questions there.

Budgeted department revenue encumbrances, historical markers are \$37,050. If we just keep going, grants – we have a grant right now. Expenditures of our grants was zero. Encumbrances break down the grants and state grant budget by category and total state grants budgeted. We have total state grants encumbered of \$2,660,600.

Any other questions that anybody has?

Patrick, have I covered everything?

MR. McINTYRE: Yes. That's all pretty self-explanatory. If there are any questions or comments we can address them.

MADAM CHAIR: At this time I need a motion to approve the financial statement.

UNIDENTIFIED SPEAKER: So moved.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor say aye.

(All voted aye.)

MADAM CHAIR: Moving on to the second item is the budget for the financial year of 2018 and 2019. We will need to vote on this year's full budget.

MR. McINTYRE: As you all remember, you voted on elements of this budget in June, but then the way fiscal year starts July 1st, we always vote on this at the October meeting. So we have a total budget of \$5,081,900.

MADAM CHAIR: Are there any other comments that you would like to make, Patrick, concerning the budget?

So I'll need a motion to accept the budget for the financial year of 2018-'19.

MS. MOORE: So moved.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor?

(All voted aye.)

MADAM CHAIR: Patrick, you have no other comment about the budget at this time?

MR. McINTYRE: I will comment just a little bit on FY '19-'20. It's hard to believe that the preparations for that are underway. We will probably present that proposal to the Department of Finance and Administration in November. I expect hearings before the senate and house

probably around February or March. So we will keep you posted on that. It looks like everything is kind of on track for that. Obviously there's an administration change coming so things may be a little bit delayed with that. Right now we're still conformed to our regular requirements.

MADAM CHAIR: At this time the next thing on the agenda is the Publications Committee. Commissioner Troy Heape, will you present that, please?

MR. HEAPE: For the Publications Committee report all I have is just a reminder about the Tennessee History Book Award. The deadline from nominations is November 1st. There is a copy of the nomination form in your packets. Just as a reminder, the Tennessee History Book Award is sponsored by the Tennessee Library Association and the Tennessee Historical Commission. It's given each year at the annual conference of the Tennessee Library Association for excellence in historical writing. The award is a cash award of \$200 and a plaque. A jury panel of qualified experts in the field of Tennessee history will make the award selection. I just want to remind everybody if you have any nominations to get those in. That's it.

MADAM CHAIR: Thank you.

Next on the agenda is History Sites Committee. At this time I will recognize Dan Brown to present us with some of this

information, and if we have any historic sites present. I'm not sure we do, Dan. Do we?

MR. BROWN: I'll just try to make it brief. I think everyone saw the report. Capital projects are very busy right now. We've got eight capital projects underway currently. Two of them are under construction. Chester Inn we can project at about \$300,000. Hallbrook is projected at about 300. We just bid out this week (inaudible) at 2.5 million, and Cragfont at about \$400,000. We have a design going to bid for the Carter House of 3.5 million for a new visitors' center, which will begin construction this winter.

In design development we have Marble Springs, \$400,000; Alex Haley, half a million dollars in general repairs; and Tipton-Haynes, about \$750,000 in general repairs to the historic structures.

For the legislative session in January the question of a visitors' center, approximately 1.2 million for Sabine Hill. Then trails and facilities development at Wynnewood Hawthorn Hill for about \$650,000. We're very, very fortunate to have the support that we have right now. It's a very busy time for us. I think everything I can tell from the history of this program it's the best support we've ever had from the legislature and from the administration for development and repairs.

In addition to that, last year we had our maintenance budget was double, from a quarter of a million to a half a million. So as you

see on the other pages, the major maintenance at the sites, I've got work going on at virtually every site across the state that are additional maintenance and repair projects.

We are also doing a visitor's count program with ASLAH, which will be finalized at our January meeting. I do have a couple of issues with that. We have a few sites – Rocky Mound, Tipton-Haynes and Wynnewood – that are struggling to get their surveys finished. But we're working closely with them to get them finished before the end of the month.

Then our fall preventative maintenance schedules, we've had one small hiccup. We lost Lee Company. With Lee Company I built my entire preventative maintenance program around them for all of our sites. They have removed themselves from all state work so we're having to re-work all of our contractors that do our PM programs. But we're on top of it. It's all being taken care of.

We go into winter tree repairs for the sites. We have done that the first round. We will be doing the second round this winter. Then we're also working on a handful of other sites that are start sites, you know, with things like Glenmary Congregational Church and some other structures around the state.

We're also working with Cragfont and Wynnewood to possibly have a merger of their boards. The sites are about a mile from each

other. We think that this will be very positive in the same way that the Carter Carnton merger has worked out - extremely well - for that site.

Also we did have a recent audit findings that some of the paperwork that the auditors should have been on file for our office – although it’s not statutory, they’re not required by contract – was not on file. So we have corrected that. We have 139 of 140 different reports on file, and 140 if one is being taken care of. It’s a termite renewal at one site.

The Museum of Early Southern Decorative Arts is doing visits. In fact, today at two of our sites – Cragfont – excuse me, three – Cragfont, Rock Castle and Hawthorne Hill. I think this is an excellent – excuse me. It’s four sites. I’m sorry. I missed one.

MR. MCINTYRE: Carter.

MR. BROWN: Excuse me, Patrick?

MR. MCINTYRE: Carter House.

MR. BROWN: That’s right. Carter House as well. I’m sorry, I forgot that.

Then the slave dwelling conference is being held next weekend. We will be hosting on Saturday. They’re having a lunch at our office. We’ll be doing a tour of our out buildings that were rehabbed, including two slave structures that were rehabbed approximately two years ago. We’ll be doing a tour of that with this slave dwelling conference. Again, we just have a lot of other numerous sites being worked on.

MADAM CHAIR: Thank you, Dan. A testament to your hard work is that we're included – those four sites are included in the rambles today. I wish you could be there to take them around.

MR. MCINTYRE: I think it's really a golden era for our State Historic Sites Program. I think there's no other way to kind of encapsulate it, if you read the depth of this report. To think, eight capitol projects at one time is totally unprecedented. So I want to recognize the support of the governor and general assembly and Dan's leadership in that area as a one-person team. So it's just extraordinary. So we're very proud of that component of our program.

MADAM CHAIR: Thanks, Patrick.

Next on the agenda are the Monuments and Marker Committee. A copy of the report of the markers has been sent to each of you, and also included in your folder today. In the absence of Steve Norman, Commissioner Lucy Lee will present the monuments and markers report.

MS. LEE: Thank you. The Marker Committee did have a meeting in September to go over these markers. We have proposed five today, and then one other that we deferred from our meeting to get some clarification. So you've all had a chance to look at it, and they have all been paid by their sponsors. I would entertain a motion that we accept these markers at this time.

MS. MOORE: Excuse me. I have a question about an individual marker. Again, I think it's always good, even though the committee has approved these markers they're presenting to us, that we go over them individually. It doesn't take very long. If there's a question or comment about any of them then that way we can do that.

I do have a comment about one of them. This has to do with the Reedy Creek Missionary Baptist Church. This would be sentence two. I would suggest that instead of Using this sentence, on February 13th, 1837, R.E. – and I think that should be a C – Daugherty sold a parcel of land to the congregate. The deed itself does not say that. The deed says that R.E.C. Daugherty sold two and three-fourths acres of land to the deacons. That's quite different from the congregation. This, of course, is a Baptist congregation. Then the deed proceeds to name these deacons; Abraham White, Baylor Walker, John R. Hall, James B. Jones, John B. Hall, Reddick Killsmann, and their successors. To me, this needs to be on the marker. For one thing, for accuracy sake. The second reason is it's as important to have the early leaders in the church mentioned as it is the later members of the church.

So, therefore, I would move that sentence two be replaced by what I just read, that on February 3rd, 1937 R.E.C. Daugherty sold two and three-fourths acres of land to the deacons. I won't repeat the names.

MR. McINTYRE: I appreciate that, Commission Moore. I would just point out that this is really a marker that is focusing on Missionary Baptist Church and the congregation that then sprang from that original entity 30 years later. So I don't know if there is space allowable or if it's necessarily okay to kind of go in and get down to the weeds with the names of all those individual members.

MS. MOORE: Yes, it is to me because they were the deacons in the church, or the leaders of the church.

MR. McINTYRE: That's correct, but this is about the successor. It does mention the roots of the church and then the subsequent congregation. The focus of the marker is actually on the Missionary Baptist Church.

MS. MOORE: I understand that. I've read the deed and I've read all the supporting documentation too, but if you eliminate this and substitute the word "congregates", that is inaccurate as far as the deed is concern.

MR. ELLIOTT: Could you just put in the deacons, rather, and just leave it –

MS. MOORE: Instead of the congregates I would put in that Mr. Daugherty – R.E.C Daughterty – sold two and three-fourths acres to the deacons, and I would name the deacons because they were the early leaders of the church, and their successors. That's my motion.

MR. ELLIOTT: How many deacons were there, again?

MS. LEE: Linda, would you like to –

MS. MOORE: Walter Hall, John Hall and Hillsman.

MS. LEE: Linda, would you mind coming to the microphone for comment, please?

MS. LINDA: When you look at that marker that is a proposed marker. It's really focusing on the African American church, which was a descendant of the original white church. I think that when you are – let me say an example. My church, which is (inaudible name) Baptist Church was originally a mission of First Baptist Seventh Avenue here in Nashville. We knew the history of that church. We mentioned Seventh Avenue, but we focus on when you become an independent agency, which happened after the Civil War. I think that when people are trying to do the history – and really I understand what you're trying to do, but they are focusing on Reedy Creek Missionary Baptist Church and when it became an African American church after the ecclesiastical separation, if you will, from the white church immediately following the Civil War.

I agree you can change the word congregants to deacons, but that is what that particular congregation is trying to impart. It is their history and they did include being a part of the white church, but they are focusing on their particular church. I think that when people are paying for these markers and the information is basically correct that you should at

least give them the opportunity to put in the public domain information about their congregation as they see it. They're not negating being a part of originally the white church, but they are trying to focus on their heritage in that community and that church.

MS. MOORE: Their later heritage is not omitted. I am not suggesting that we omit what comes later. This one sentence, I think, is inaccurate. That's what I'm –

MADAM CHAIR: Commissioner Elliott has a comment.

MR. ELLIOTT: I would be willing to support Commissioner Moore's motion to the point where we say deacons. I think because we're talking about a different congregation that naming those deacons is not very significant for this particular marker, but the remainder of her corrections with the initial and then the two-and-a-half acres, or whatever it was, I think is appropriate.

MR. TIPTON: I'll second.

MADAM CHAIR: All in favor say aye, please.

(All voted aye.)

MADAM CHAIR: So at this point do we need to read that correction to the marker, Ms. Lee?

MS. LEE: Yes, we will change it as they approved; on February 13, 1937 R.E.C. Daugherty sold a parcel of land – does that not encompass the – are you okay with parcel of land?

MS. MOORE: Yes.

MS. LEE: To the deacons. We want that changed.

Hotel Dixieland, are there any comments on that? I'll entertain a motion.

UNIDENTIFIED SPEAKER: Move to approve.

MS. CAMPBELL: Second.

MS. MOORE: Second.

MADAM CHAIR: All in favor say aye.

(All voted aye.)

MADAM CHAIR: The (inaudible); any comments on that?

UNIDENTIFIED SPEAKER: Move for approval.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor, say aye.

(All voted aye.)

MADAM CHAIR: The cash (inaudible)

UNIDENTIFIED SPEAKER: Move to approve.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor, say aye.

(All voted aye.)

MADAM CHAIR: The Orchard?

UNIDENTIFIED SPEAKER: Move to approve.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor, say aye, please.

(All voted aye.)

MADAM CHAIR: Also the marker that was deferred from the June meeting for William J. Faulkner?

UNIDENTIFIED SPEAKER: Can I ask what the clarification was, Lucy?

MS. LEE: It had to do with it was replacing a marker. Linda you may – I don't have that information right in front of me. It was a matter of replacing a marker, perhaps.

MS. LINDA: Basically what they wanted to do was to remove a marker that was on the campus of Fisk University and replace one that was there. When I looked into it Faulkner did look at that residence. The university has decided that it will not remove the marker that is there, but it will replace the Faulkner marker at the same place.

The other discrepancy was the length of time that Faulkner lived in that particular house. So that date was changed. The university sent a letter – Dr. Rome sent a letter stating that they would allow

the marker to be placed, but there would be no financial encumbrances upon the university.

MS. LEE: But we found funding from someone else?

MS. LINDA: No, the sponsor is going to fund it, but that was in his letter, that there would be no financial encumbrances upon the University for that Particular Marker.

UNIDENTIFIED SPEAKER: Move to approve.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor, say aye.

(All voted aye.)

MADAM CHAIR: That concludes this report.

MR. TIPTON: I have a question about markers before we leave this. Linda, when someone applies for a marker and they pay for it and then it's located – we know where it's located – who owns that marker? Is that state property or is it the property -

MS. LINDA: It's state property.

MR. TIPTON: Or is it the property of the person?

MS. LINDA: It's state property.

MR. TIPTON: Okay. And if somebody wants to move a marker does this commission have to approve it?

MS. LINDA: Based on the new language in the Heritage Act, yes. I think there are some exceptions in that Act. I'll let Patrick speak to that, specifically.

MR. MCINTYRE: If it's on public property and if it's not – there's a TDOT exclusion. If it's on the right-of-way and TDOT wants to move it they don't have to go through the process. Most of our markers are actually on the right-of-way. A few have found their way onto private property. So the balance in between is just a question of determining if something is sort of placed in between.

MR. TIPTON: The difference is public or private properties?

MR. MCINTYRE: Right. If an individual wants to move something on the right-of-way that would be different from TDOT deciding it's in the way.

MR. TIPTON: Thank you very much.

MS. MOORE: What happened to the two markers that were in Confederate Park in Memphis? I referred it. Present day vandals pulled it up.

MR. MCINTYRE: That's in the TDOT regional garage in Jackson.

MS. MOORE: I understand – I don't know if this is true – that the post will discard it. Is that true?

MR. MCINTYRE: It's my understanding that the posts were discarded. That's correct.

MADAM CHAIR: Any other discussion? If not we'll move on to the report from the Wars Commission. Tim Hyder is here with us. I guess the Early Southern Decorate Arts is also walking across some of your property too if they're at the Carter House. So we want to give the historic sites – they're touring all through that area.

MR. HYDER: As I'm sure you've read my report, I won't go over exactly the fine details, except to say that one of the big things that has been occupying the Wars Commission's time is just like every year it's the administration and sort of dealing with the applications for the two separate grant funds that the Wars Commissioner administers.

This year I am very pleased to say that we have fully moved into the 21st Century. Both the site's preservation fund and the Wars Commission grant fund, the applications and nearly the entire process of administering these grants has now been moved to digital, thanks to the incredibly diligent work of a team of two or three people in TDEC. We have migrated the entire process digitally. That wasn't without its own growing pains, even for me, a guy who grew up in the digital age. We've been working out some very kinky kinds about getting everything straightened up the way it needs to be so that potential grantees have the ability to submit digitally. It's easier for them and it's not an excess burden.

We have now gotten to the point where with both grant funds – the sites preservation fund – closed on the 31st. Excuse me, the 15th. I don't know whether it's because of the easier application process or there's just more out there, but for both we've gotten a significantly larger number of applications this year than at any other point in my tenure, which is exciting. It means it's going to be very competitive. From what I can see there's going to be some excellent projects in the hopper. This Commission – once preservation fund grants have been scored by myself, Patrick and Linda this Commission will be voting on approval for those projects at our February meeting.

The other thing I've been doing is taking care of a lot of housekeeping, government wise. As Dan mentioned in his report there were just a handful of findings from the audit – the state audit – of the Historical Commission, one of which is that the Wars Commission statutorily needs to be providing a yearly report to the Tennessee government, including the governor and legislators. I am working on that. It will be a basically sort of a shinier version of the year-end report that I present to you all in our June meetings, but I will be providing that year-end summary report to y'all as well. That will be finished in probably late December. I anticipate sometime between Christmas and the New Year.

The other thing that I think Dan mentioned is that we are, in addition, preparing a report to new legislators and our new governor via

TDEC of just what exactly the Tennessee Historical Commission and the Tennessee Wars Commission. The depth and breadth of the state holdings attached to our offices, as well as sites that we administer under easements. The initial report only mentioned Clover Bottom, which is not nearly – it's probably one percent of the state's holdings, even in an administrative capacity. So Dan and I have been working very diligently tracking down every single piece of property from Hanning to my beloved Elizabethan. That encompasses – I don't know – something like 35 or 40 probably sites in total, just to indicate and show legislators just the depth of work and the ground that we have to cover in order to perform our statutory requirements and take care of the things that matter so much to all of us.

I'd be happy to entertain any questions about this report.

Finally, I do want to say I would ask the Commission – specifically the War Commission Committee – if it would be acceptable to convene a meeting in the February meeting, as I think we'll have a considerable amount to discuss. I will be able to go over the previously mentioned reports, and at that point discuss sort of more in depth the projects that we have going on for this fiscal year. As chairman of the War Commission Committee we will see what our schedule is and if we can't do it at that meeting we'll do it by phone previous to the meeting.

UNIDENTIFIED SPEAKER: Tim, this land acquisition fund has really been a boom for battlefield acquisition. Do we have any idea what the (someone coughs) is going to be for this year?

MR. HYDERS: This year that hasn't exactly had the it down to the penny put on it, but from my previous discussions FNA we're looking at maybe a little bit more than 2.1 million dollars.

MR. McINTYRE: That's incredible.

MR. HYDERS: Yes. It has been a spectacular boom to Civil War preservation in the state of Tennessee. Preliminarily from what it looks like we're going to possibly be doing some big things that I'm excited about.

MR. McINTYRE: I'll note for our two or three friends from Chattanooga here that we have used that fund to acquire the Browns Ferry site recently, or assisted in that acquisition. It's a large tract of land on this side of Missionary Ridge up towards Sherman Reservation. It's really a wonderful resource.

MR. HYDERS: Yeah. I can happily say that there's basically not a part of this state that that site's preservation fund has not touched or will not touch. It's been a remarkable thing and an honor to administer, to be quite honest.

MR. McINTYRE: That's great that there's more people buying for that money because that shows that people are recognizing its potential.

MR. HYDERS: Yes. And the word is getting out. I think migrating these things to digital has increased their reach and their accessibility, which was one of my goals when I came on to the Wars Commission.

MADAM CHAIR: Do you have another question?

UNIDENTIFIED SPEAKER: I was just going to ask very quickly if we have an update on our Mexican War Veterans who are eligible.

MR. HYDERS: Yes and no. At this point what they're trying to do, without getting really into the weeds of this – some of the mitochondrial DNA that was extracted from their tooth pulp didn't match – or it matched very odd samples. So what they're trying to do now is find further reference samples that are closer to Middle Tennessee, from that era, as comparison samples. The work continues to try to track down descendents of possible female descendents of these men. Again, as things rise and fall with, unfortunately, our service numbers overseas following combat work gets pushed forward or back, depending on the need or the ability.

UNIDENTIFIED SPEAKER: I had sort of assumed that they might take a backseat to Tarawa veterans and the others that are coming home.

MR. HYDERS: That's also correct. As other remains are repatriated with sort of more definite sort of historical prominence they do take precedence over 19th Century remains.

UNIDENTIFIED SPEAKER: Thank you for keeping an eye on that.

MR. HYDERS: Not a problem.

MADAM CHAIR: If there are no other questions we'll move on to the Federal Programs Report. Thank you, Tim, for that wonderful job.

UNIDENTIFIED SPEAKER: Thank you very much. It's great that we have Federal Programs staff here today, since they're the ones who actually are doing such great work in this area.

I would call your attention to a couple of things in there, including the National Register Program. One of the properties listed since your last report is Rosa Booker T motel in Humboldt. Those of you that were in the state museum last night would have seen that there is a sign from that hotel that is supposed to be placed in there at some point. There's also one in the Smithsonian Museum of African American History in Booker

that's already on display. The signs are elsewhere, but the building is still there in Humboldt, and it's now listed.

We did have one unfortunate removal that I would point out, the Noblit-Lytle House from Minor Hill, Tennessee where Sam Davis was captured. This was a place that ten years ago there was a lot of excitement and energy because some folks had purchased it, I believe, with the idea of fixing it up. It's got a log core, but basically presents as a side gable, sort of, central hall plan vernacular. It has wonderful Victorian jigsaw work on it. It was antebellum in its core.

The bad news is that sometime between ten years ago when they built that – and they even put up a marker. We all remember they put a Tennessee Historical Commission marker. The marker got torn down and disappeared. Nobody knows what happened to it. They brought in a television show called Barnwood Builders and decided this would be the perfect thing, to rip everything down and take the logs so it can be maybe some country music star's jacuzzi room or something. We've lost a significant resource in Giles County as a result of the television show called Barnwood Builders. It's really unfortunate that they would take a National Registered listed building down like this, and it's sort of symptomatic of some larger issues in preservation, the recycling industry being an interesting thing. It's now moving into a realm where it's working completely against historic preservation. So I'm digressing on that.

Also I wanted to tell you, the good news is we got part three of the final paperwork in for the cross-town stairs. It's called the Cross-town Concourse in Memphis. It's 200 million dollars, plus this tax credit project is the largest in Tennessee state history. Just this week it was announced that they are one of the top award winners for the National Preservation awards program. That will be taking place, I guess, in San Francisco next month. I think everybody in Tennessee should be really proud that, this sort of tax credit program. It's now not only past the billion dollar mark, but it's almost at 1.3 billion now. So what an improvement in economic development and revitalization.

On the extensive survey report, the Historic Preservation fund grants have been given out this period so you see a lot of places that are getting assistance with that.

Judge Stovall has planned about an hour, so we're going to have to move this along. I know we're waiting for that to begin, so I appreciate everybody's patience for the hearing. I'll entertain any questions or comments.

Thank you very much.

MADAM CHAIR: Moving through the agenda, the next is the Cemetery Committee. Patrick, I'm going to turn it back over to you for an update on that.

MR. MCINTYRE: Of course, Chairman Mitchell is not present today, but I just wanted to put that on the agenda to let you know that we talked in June about the new cemetery – changes to the cemetery law. There was a cemetery committee being formed. Certainly by February that will be in place and we'll know a lot more information and hopefully have somebody on board who can be a liaison, and those appointments will be made between now and that February meeting.

MS. MOORE: May I speak to the cemetery law?

MADAM CHAIR: Yes, Commissioner Moore.

MS. MOORE: I can't tell you how important the cemetery law is because in the 1980s I came to Williamson County to try to find the gravesite of one of our family members. He was a Revolutionary War soldier from North Carolina. His name was Thomas Bradley. The Historical Society there had recorded the graves sometime before then. Of course, that was before GPS. So I looked and looked and I could not find it. I got in touch with the Historical Society. Later on I got a letter from Vance Little. He said that the reason I could not find the gravesite was because it had been bulldozed. I came to find out that the cemetery laws at that time, if you disturbed a gravesite in some form or fashion it was simply a misdemeanor and a \$50 fine. Now here is this man who is a young teenager who fought in the revolution and in later years he fought with Andrew Jackson. Some developer went in – it was a box-type tombstone – went in

and bulldozed it. Not only his grave, but his wife's grave and a couple of other family members.

So after that, at that time, I was the president of the West Tennessee Historical Society, and I was also a member of Watauga Chapter DAR. And so Governor McWherter was in office, and Weakley County Tennessee had a very strong junior rifle society. So all of these organizations came together and we got a new law passed, which put some teeth into the cemetery law. Now, apparently through the years it got watered down. But I think preservation wise, and decency wise, I cannot envision someone being so callus and so cold hearted that they would come in and willfully bulldoze a grave that's obviously there, a box-type tombstone. We need to put a stop to that.

One thing that I was told is you have to prove that there is actually a gravesite there, and also the precise location. So Williamson County back then had a big map on the wall. I think it was in the fire station. It had these little backyard cemeteries listed. So I do hope that this new cemetery law, and also the committee that's being formed, will take all of these things into account and try to do something to stop what we do have that's left of the remains of our ancestors.

MADAM CHAIR: Any other comments? If not, we'll move on to the other business section of the agenda. The first thing under other business, there are two resolutions that are in your packets that you've

had an opportunity to review. The first that we will look at is the resolution as a proposal to support the naming of the visitors' center as the Tipton-Haynes State Historic Site for Penny McLaughlin. This initiative was brought to us by the Historic Site. You all have had an opportunity to read that. It's J1 in your information.

If there is no discussion we'll need a motion to move that we accept this resolution.

MS. MOORE: So moved.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: All in favor, say aye.

(All voted aye.)

MR. TIPTON: I'd like the minutes to reflect that I abstained from voting on that request.

MADAM CHAIR: Okay. Thank you.

The second resolution that is before us is to support the naming of the new State Historic Site Visitors' Center for Herbert Harper, which most of us know was the former executive director of the Tennessee Historical Commission. You've had an opportunity to review that resolution in your packet also.

UNIDENTIFIED SPEAKER: It would be my honor to move that we accept that.

UNIDENTIFIED SPEAKER: I second it.

MADAM CHAIR: Thank you. All in favor, say aye.

(All voted aye.)

MADAM CHAIR: The next thing we have on the agenda is a report from the State Library and Archivist. I have to say, Mr. Cheryl, it's a great privilege to see that building site I drove past last night for your new location.

UNIDENTIFIED SPEAKER: Thank you. We're excited about that too. I hope you all, as you visited the new state museum, looked across the Bicentennial Mall to see this big crane looming over the sight of the new State Library and Archives. We're in the middle of construction. Our construction timeline had to be pushed back somewhat for a variety of reasons, but we plan to be complete in the summer of 2020, so we are working towards that deadline.

I wanted also to mention that I think our most exciting news on the history front, other than getting a new building to host the collections, is that we have added to the Tennessee Electronic Library, which is a suite of online resources available free to all Tennesseans. The digitized newspapers from Nashville – the collection is called The Nashville Tennessean, but it actually begins in 1812 with the Nashville Whig and comes up through the Republican Banner and other titles that eventually lead to The Tennessean. Those newspapers – I'll pass out this description of what it is. I would encourage you to take a look. It's wonderful

information, not just about the Nashville area, but about Tennessee, that's represented there for that period from 1912 to 2002. It's keyword searchable through all of those issues of those newspapers. Keyword search so far is the optical character recognition to recognize the characters properly. It does provide access to a great deal of information that has long been hidden. We've had this database at the Library & Archives for three or four years, but through the generosity of Secretary of State, Tre Hargett, we were able to purchase it to put it on the Tennessee Electronic Library so that it can be viewed from any computer or handheld device in Tennessee.

MADAM CHAIR: What an incredible opportunity for future researchers. No more going and reading in a microfilm reader for hours in some dark space.

UNIDENTIFIED SPEAKER: Takes all the fun out of it.

MADAM CHAIR: I think maybe everybody should just have to do that so they appreciate what you've got. Those of us who have used those microfilm readers for hours.

UNIDENTIFIED SPEAKER: Anybody coming to visit you in your new building can all access it by computer.

UNIDENTIFIED SPEAKER: We've estimated that it would take probably about 500 million dollars in 20 years to digitize the rest, so this is just a small step, but a significant one.

MADAM CHAIR: It absolutely is. Thank you for that report. Moving on through our agenda is the next thing is we need to hear – the Audit Committee will meet prior to our next meeting and we will have that report at that time.

Also in your packet is the Certificate of Merit Awards for 2019. If you will review that, and I guess just a plea to everyone is that to look around in your local communities and make sure we are honoring people that need to be honored and reach out to other people that may have suggestions. We really worked hard to get the merit award applications and prioritized who we're recognizing. So I ask each of you to go back to your local communities and help with that.

Also, moving through the agenda is a nominating committee has been formed by Dr. Mitchell's chairman at Dr. Mitchell's request. You will see serving on that will be myself, Sam Elliott and Alan Carter.

I guess the next exciting thing we have - which I think we're going to have something pretty exciting so I guess we all need to be creative. If you notice, the Tennessee Historical Commission will mark its Centennial year in 2019. So that's quite a marker. We all need to have some ideas of how we're going to recognize this.

Patrick, do you have any suggestions?

MR. MCINTYRE: Well, it is really interesting that we'll mark our 100th anniversary since we were established as a Tennessee Historical Committee, not the Commission, in January of 1919. So, sometime, whether it's an enhanced celebration or something in conjunction with one of our meetings, I think it will be great if we do at least recognize that and maybe we will have ways within our office to recognize that on social media and sort of outreach efforts that we do generally, our state review board meetings, et cetera, just to kind of recognize that. Of course, the National Preservation Act just celebrated its 50 year anniversary a few years ago, but the commission itself has been around a lot longer. So that's just something I think that's worth shouting about. Maybe we'll have a birthday cake or something.

(Comments off the record.)

MADAM CHAIR: The next thing we need to look at so we can get to the next part of our meeting is our February meeting is currently set for February 15th. We have discussed Chattanooga. I guess the first question is, are the people from Chattanooga willing to still be our hosts and hostesses for that at that time?

UNIDENTIFIED SPEAKER: Linda certainly is.

MADAM CHAIR: Thank you. And then it's been pointed out that there is a conflict for that date of February 15th. Apparently we're a romantic commission and it's the day after Valentine's, but also

there is another conflict. There's no other problem with this, but it's suggested or requested that we move it to the date of February 22nd.

UNIDENTIFIED SPEAKER: So moved.

MS. MOORE: Second.

MADAM CHAIR: All in favor, say aye.

(All voted aye.)

MADAM CHAIR: I guess moving through other business, if we don't have any other business at this time, at this time I will turn the meeting over to the Honorable Judge Thomas G. Stovall for our hearing.

JUDGE STOVALL: Madam Chair, does the Commission want to take a short recess before we begin the hearing?

MADAM CHAIR: I think that sounds like a great idea.

UNIDENTIFIED SPEAKER: Madam Chair, before we transition, just a brief word.

Over the summer I spent about half a day at the Historical Commission's office and I just want to point out what a great job they're doing and how amenable they were to my questions. They're an awesome group of people. They're doing great work and I had a great visit there.

I also want to thank Dan and the job he's doing with the sites. I also got to visit the (inaudible) site, as well as the HallBrooke, and

had two great visits there. So I just appreciate all the work that you're doing, Patrick. Thanks for having me and putting up with, again, a lot of questions.

Also just a shout-out to Commissioner Mossmines. I had the pleasure of going to Chattanooga to the Metal of Honor program that you're so heavily involved in. You're doing great work with that, so, thank you so much.

MADAM CHAIR: Thank you. Other comments?

UNIDENTIFIED SPEAKER: Very briefly. I forgot to mention in my report that we have a severe mold problem at Rocky Mount that we're addressing very aggressively. I just want the Commission to be aware of it, in case. We have involved risk management and we have involved our consulting. Also TSLA, Chuck Cheryl and Carol Roberts, have been very generous in their assistance with this sense of emergency over there. We will be talking with insurance folks in risk management this afternoon to understand coverage and liability and how we proceed with it. I just wanted to put that on the radar screen in case you hear about it.

MADAM CHAIR: Thank you. Any other comments before we take a brief recess?

Then let's take five minutes.

(Brief recess observed.)

MADAM CHAIR: We have Judge Thomas G. Stovall for the hearing. Judge Stovall, would you like for us to take roll again for the record?

JUDGE STOVALL: Yes, if you would, please, Madam Chair.

MADAM CHAIR: Ashlee, if you will do roll call one more time, please.

MADAM CLERK: Mr. Earnie Bacon?

MR. BACON: Present.

MADAM CLERK: Ms. Beth Campbell?

MS. CAMPBELL: Here.

MADAM CLERK: Mr. Allen Carter?

MR. CARTER: Here.

MADAM CLERK: Dr. Joe Cupples?

(No response.)

MADAM CLERK: Dr. Kent Dollar?

DR. DOLLAR: Present.

MADAM CLERK: Mr. Sam Elliott?

MR. ELLIOTT: Here.

MADAM CLERK: Mr. Jeremy Herold?

MR. HERROLD: Present.

MADAM CLERK: Ms. Lonnie Harris?

MS. HARRIS: Present.

MADAM CLERK: Mr. Troy Heape?

MR. HEAPE: Here.

MADAM CLERK: Ms. Tiny Jones?

MS. JONES: Here.

MADAM CLERK: Ms. Lucy Lee?

MS. LEE: Here.

MADAM CLERK: Dr. Bill Lyons?

MR. LYONS: Here.

MADAM CLERK: Ms. Linda Mossmines.

MS. MOSSMINES: Here.

MADAM CLERK: Dr. Revis Mitchell?

(No response.)

MADAM CLERK: Ms. Joanne Moore?

MS. MOORE: Here.

MADAM CLERK: Dr. Keith Norman?

(No response.)

MADAM CLERK: Mr. Don Rowe?

MR. ROWE: Here.

MADAM CLERK: Ms. Beverly Roberston?

(No response.)

MADAM CLERK: Mr. Ray Smith?

(No response.)

MADAM CLERK: Mr. Joseph Swann?

(No response.)

MADAM CLERK: Judge David Tipton?

MR. TIPTON: Here.

MADAM CLERK: Ms. Derita Williams?

MS. WILLIAMS: Here.

MADAM CLERK: Mr. Don Johnson?

MR. JOHNSON: Present.

MADAM CLERK: Mr. Brock Hill?

(No response.)

MADAM CLERK: Mr. Mike Moore?

MR. MOORE: Here.

MADAM CLERK: Mr. Chuck Cheryl?

MR. CHERYL: Here.

MADAM CLERK: Dr. Carol Van West?

(No response.)

MADAM CLERK: We have a quorum.

THE COURT: Thank you. We are ready to commence this hearing. This is a hearing before the Tennessee Historical Commission to consider the Petition for Waiver submitted by the City of Chattanooga which seeks to undertake a renovation and reconstruction of the existing

Patton Parkway, including a relocation and rededication of three World War II memorials located therein.

My name is Thomas Stovall and I have been assigned by the Secretary of State to be the administrative judge at this hearing. As the administrative judge, I will not participate in the decision that is made on the merits of this petition. That decision, of course, will be made by the Commissioners that are present this morning.

I would ask at this time if any of the Commissioners have any prior knowledge about this matter or have received any ex parte or outside communications concerning this case. I do understand that under the procedure outlined in your statute the matter would come before you in a preliminary hearing, which is fine. But other than that, if any of the Commission members have received any communications from other sources about this matter, that they would put that on the record at this time.

MR. ELLIOTT: Judge Stovall, Mr. Noblett and I are very good friends and very old friends, having practiced law together in Chattanooga for a number of years. He consulted me on the format of the proposed findings of fact and conclusions of law, and I made a comment or two, but other than that, that's the only communication I've had.

THE COURT: Thank you, Mr. Elliott.

MS. LYONS: I'm Commissioner Lyons from Chattanooga and I do serve as secretary of the Chattanooga Area Veterans

Council and so I'm aware of the Veterans Committee that has been created to work hand in hand with the city of Chattanooga.

THE COURT: I guess specifically for you two individuals, is there any reason that you won't be able to hear this in an unbiased and impartial manner today?

MR. ELLIOTT: No, sir.

MS. LYONS: No, sir.

THE COURT: Thank you very much.

Here on behalf of the Tennessee Department of Environment and Conservation we have Ms. Emily Urban and Mr. Joe Sanders from the Office of General Council. On behalf of the City of Chattanooga we have Mr. Phillip Noblett who is the city attorney.

I would also ask at this time if we have any other people that are in the audience today that want to be heard on this matter. If so, raise your hand.

All right. Seeing none, Ms. Urban, at this time before we hear from Mr. Noblett, could you just make an opening statement that would perhaps explain to the Commission basically procedurally how we got to where we are today, what they have before them, or what they will have in front of them, as well as what, if any, position the Department takes in this matter? Then we will hear from Mr. Noblett. Go ahead, please.

MS. URBAN: Thank you, Judge Stovall.

The City of Chattanooga filed a Petition for Waiver concerning memorials on Patton Parkway on April 16th, 2018. The Commission had their initial hearing pursuant to the Tennessee Heritage Protection Act on June 15th, 2018 in Bolivar where they heard and approved a notice list for a notice to be sent out concerning the Petition of Waiver. We are now convened for the final hearing, pursuant to the Tennessee Heritage Protection Act.

We have made several copies of the Notice of Hearing that contains the Petition. That was sent out by Ashlee when the Petition was filed, but if any member feels a need to review that petition we have about five to six copies so we can give those to members as they need to hear them.

Also (inaudible name) of the Tennessee Historical Commission composed a memorandum regarding the status of the Patton Parkway that was distributed by executive director, Patrick McIntyre. That has been filed on the record. We also have several copies of that memo that was distributed to the members in an e-mail if the members desire to look at that as well.

The Tennessee Department of Environment and Conservation takes no position in this matter. The Tennessee Historical Commission is attached administratively to our Department so we are providing assistance in that capacity.

THE COURT: Thank you, Ms. Urban. I neglected to state for the record that, of course, we have the Notice of Hearing that was filed on September 19th including a number of attachments that I think Ms. Urban is going to make available to the Commission. I also have the Notice of Filing that she just referenced that was filed on October 17.

Finally, the City of Chattanooga filed this proposed findings and conclusions of law which will be submitted to the Commission after the hearing, as well as an exhibit list. So I think what we're going to do, Members of the Commission, is a lot of the documents and exhibits and so on – I think Mr. Noblett's presentation with his witness is – his witness is going to make an oral presentation, but a lot of documents, photographs, et cetera are going to be shown on the screen. So what we're going to do is Ms. Urban is going to – we don't have copies for everybody, but we have enough that we can pass them around. So for those of you that would like to go old school and look at hard copies, you'll have that. The new generation can look at the screen.

So at this point, then, why don't Ms. Urban get these documents together and pass them out.

(Comments off the record.)

THE COURT: As the Commissioners may recall from the hearing that we had earlier in the year on the MTSU matter, the Commissioners will have an opportunity to ask questions of the witness. So

of you want to come down here at this time to watch the presentation, and then perhaps after the presentation you can go back to your seats.

All right. Mr. Noblett?

MR. NOBLETT: May it please the Commission, I'm bill Noblett. I'm used to appearing in front of a court, but never this many judges at one time. For this opportunity for this hearing, the Judge has told you about our Petition for Waiver that was submitted. We have submitted it more than six months ago now at this point in time. We're trying to proceed in accordance with TCA 41412 to undertake a renovation and reconstruction of Patton Parkway, which is in the city of Chattanooga. It would include the relocation and rededication of three different World War II memorials that are located in that area. This is involving a location – we'll show you some pictures in connection with our presentation here today. We will show you where they are now and where the proposals are for relocation of those monuments to ensure that they will continue into the future.

The Patton Parkway in and of itself has quite a bit of history. That's one of the reasons we're trying to discuss what we are envisioning this project to be. Mr. Blythe Bailey from the Chattanooga Department of Transportation is here today and will show you a presentation that we have prepared, at least showing you what they're trying to do in connection with this area. But this area, apparently, has been an area over a period of time that basically has parking spaces on one side that are

diagonally oriented here towards the Volunteer Building and towards the Yesterday's Plaza, an old restaurant building in Chattanooga right near downtown. This is off Georgia Avenue in the City of Chattanooga.

Originally there was a bunch of older buildings here in this area. The Volunteer Garage is in place. I started as an attorney in –

THE COURT: Mr. Noblett?

MR. NOBLETT: Yes, sir.

THE COURT: I apologize for interrupting. What I'm going to do here is Ms. Urban has copies here and I suggest that we do two copies per row. We're just going to circulate these down and you all can look at them, as you want. I'm sorry. Go ahead, Mr. Noblett.

MR. NOBLETT: Yes, sir. We have provided – I think each one of you now should have a copy of our exhibit list that we have prepared in presentation for this. We've got a total of seven exhibits that we'll try to show you during the presentation here today, if you want to see all of those. They would include the names that are currently existing on this World War II monument. I believe it's a total of 680 names. There are three memorials that are in this area. One is a 1949 flagpole that is in this location. It was sponsored by Post 14 of the American Legion in 1949.

There is a monument that says simply, "In Humility and Gratitude, this memorial is dedicated to the memory of each son of this city and county who gave his all, and to his hope for a better world." This was a

monument for all of those soldiers in Hamilton County who died during World War II in connection with this monument. All of their names are on that monument, which is why it's a very important part of our history in Chattanooga that we're trying to relocate into a better location.

There is, lastly, a marine memorial here dedicated to the memory of the marines in Hamilton County who gave their lives in service to their country during World War II. So those are the three monuments that are in place basically in a 15 to 20 foot center area of Patton Parkway as it exists in the City of Chattanooga. Blythe will show you pictures here in connection with his presentation about where it goes.

The monuments have been there in that narrow public space since 1950. In recent years we're trying to figure out what we can do with the center core of the city that will make it a little bit more pedestrian-oriented so that people can be able to go through that area. We have had a number in Chattanooga of meetings – public meetings – in connection with what they can envision this area might be for the future. One of the discussions on this was to try to renovate what Chattanooga has in this area.

River City Studio and the Chattanooga Design Studio have assisted in providing some guidance for where the history was and where it should go. Mr. Bailey will show you pictures of 1896 of this area where there was a large market place in this location in the center of the city before the Volunteer Building was built. I used to work in that when I first

came to Chattanooga. I believe it was developed in 1911; in that timeframe. This was originally – Blythe was telling me on the way over the location for the original – for one period of time – city hall before the city hall in Chattanooga was built in 1908. So we’re trying to go back a little bit to the marketplace location, but yet provide dignity and location for where these memorials should go.

This particular area – we’re trying to look at how the parking will go, how the pedestrian makeup of this area will go, and where should these memorials go for the people that have served. There are three proposals that we received in connection with this matter. One of those proposals is basically going to be saying that they will still exist at the end of Patton Parkway closer to Lindsey Street in connection with this area, which might allow them to go to the opposite end of that location.

The other location is an area called Phillips Park that is fairly close on the hill to the Hamilton County Courthouse area, which was just a green space area at that point in time. It will be available for another park. It’s about two blocks away and it’s right in the shadow of the Soldiers and Sailors Memorial Auditorium, so it’s fairly close in that area to where they are currently.

We’ve also had communications from a third group. Blythe will tell you a little bit about the communications from a fellow named Frank Hughes on behalf of a group of veterans who would like to

relocate this to a different location. They are trying to come up with a specific location for it to occur. That is as of yet undetermined, just because they're trying to coordinate all of the veterans of the wars since World War I. So that argument has been made and we're willing to recognize that in this regard.

If that occurs, and if y'all choose that we should do a third option in connection with this matter, the city is simply saying that they need to have a deadline for where the relocation will occur and how those monuments may be placed and held until that determination could be done.

We are trying to make sure that the storage of this location is not a long-term event. We have set a deadline, at least in the request, that we are asking of these folks to let us know between now and December of 2020 before that can occur. But we would prefer – we've already got two options of different locations where that could happen.

So the bottom line of this matter is that y'all have the authority under state law to recognize that relocation can occur. We want to try to make sure that there is a public need for this to occur in our community here, and that there is evidence of a need for the granting of this waiver in this case, just based upon the changes in our community. We are trying to make sure that the location that is done here is demonstrated on y'all's end of it, but the judge can tell you at the end that we have to prove this by clear and convincing evidence, which we're going to be trying to do,

that there is a material or substantial need for a waiver based upon public interest, and that's what we hope to present to you.

THE COURT: Thank you, Mr. Noblett.

MR. NOBLETT: Yes, sir.

THE COURT: All right. I guess we are ready to hear from your witness. Is he going to make his presentation at the table?

MR. NOBLETT: Yes, sir.

THE COURT: Will the court reporter please administer the oath to the witness, please?

BLYTHE BAILEY

was called as a witness, and having been first duly sworn, testified as follows:

EXAMINATION

BY MR. NOBLETT:

Q. Mr. Bailey, please tell this lady what your position is for the city.

A. I'm the administrator of the Chattanooga Department of Transportation.

Q. All right, sir. Did you initially participate in the application before this body back in April of 2018?

A. I did.

Q. Okay, sir. What different groups of individuals have you contacted in connection with this particular request for allowing us to have a relocation and rededication of these monuments?

A. The City of Chattanooga began with a number of planning processes, starting as long ago as 2013, in which the general public was involved in the overall effort to renovate Patton Parkway, in addition to the public process which included council approved capital improvements plans that included this project.

We have also communicated with veteran's organizations; the Chattanooga Area Veteran's Council. Each of those members has received an e-mail, or a letter if they did not have an e-mail, indicating that we were going through this process. We also met individually with the individual leadership of veterans' organizations that Mr. Noblett indicated a second ago.

Q. Okay, sir. Did you actually seek letters of support regarding what could be done that you've submitted to the Historical Commission in connection with this project?

A. We did. We asked for a letter of support from the county mayor that we received, as well as General Carl Levi, which is on the screen now. General Levi is a long-time leader in the American Legion, Post 14, which oversaw at least one of the monuments and the flag pole closest to the

property that the American Legion has controlled for a number of years.

General Levi is supportive of our efforts.

Q. Let me let you look. This is what we've marked as an exhibit for the body to review today to the Petition. It's Attachment 2. You mentioned Mr. Levi. Any other folks that you've got on your list?

A. There's a letter from the mayor – county mayor. We also have a letter from – and I have a bit of this in my presentation. The University of Tennessee at Chattanooga over the course of the last, probably, 20 years has made a concerted effort to move its campus more towards downtown both in terms of program and also in terms of facility; the dorms. They've tried to build their residential population. They see the downtown as an asset.

In addition to that, through a planning process that Mayor Berke led the entire city in, there was a commitment on both sides – the University as well as the citizens – to integrate the university – the white university - more with the city. Patton Parkway happens to be geographically seen, particularly by the chancellor, as a place that is an attraction for students geographically. The campus is moving that direction. The work that we're doing, or wanting to do, on Patton Parkway we think is creating more vitality in that public place. So we also have a letter from Chancellor in our initial Petition for Waiver document.

Q. So these three letters were provided as part of your petition initially, correct?

A. Correct.

Q. Okay, sir. In addition to the letters that you provided on there, have you received, I guess, a letter from another agency here regarding relocation of the monuments since the petition was filed?

A. We did get a letter from Carl Levi, which I don't think is part of these documents, stating his preference for one of the specific locations. We've also received a letter from Frank Hughes indicating what Mr. Noblett alluded to earlier. This may be helpful to read. This is a recent letter from a week ago from Frank Hughes, who is a retired marine.

Q. What organization is Mr. Hughes associated with?

A. He began a volunteer committee of veterans that is inclusive and diverse. He's engaged in the effort to determine what is the best way for Chattanooga as a whole to memorialize and honor all of our veterans. Partly as a result of this project he's taking great interest in trying to identify a location that would house all of the area's veterans' memorials, including the three that are currently located in Patton Parkway.

That, in a sense, is a summary of the letter. He wants the city to consider that effort also as a third potential location for these three monuments, which we are supportive of.

Q. At this point in time there has been at least a dedication to have this accomplished by what time?

A. December 31st, 2020 they have set as a goal for the process to be complete.

Q. Okay, sir. Are you as a representative of the city willing to work with any of these groups to make a determination of where the final place will be provided as of December 31st, 2020?

A. Of course. That is a pretty aggressive timeline. Somebody that works in public infrastructure - and I'm an architect by trade. There's a lot of work that needs to go into determining a location and building it by the end of 2020. I've discussed that with Mr. Hughes. That's why we indicated it as a goal. He really wanted to have that in there to represent the enthusiasm and the interest - strong interest - in getting something done.

The city has indicated that they're committed to this effort. We have staffed a mayor's office employee - the director of Open Spaces, Travis Kazmiersak, who is a veteran himself of the army - to serve on this committee. So we're working with this committee to try to get this done.

Q. If we can, I would like to let you at least show the group here a few of the photographs, at least, that we have that are a part of our Exhibit No. 5 to the petition here.

THE COURT: Mr. Noblett, while you pull that up, I think I may have neglected to do this. Let me go ahead and enter this into the record as - formally enter it into the record as Exhibits 1 through 7. I'll hand that to the court reporter and she can mark it while you find that.

(Marked Exhibits 1 through 7.)

BY MR. NOBLETT:

Q. What are these photographs that we're reviewing here at this point in time?

A. These are actually photographs that I took. I'm not a professional photographer. I don't know how many of you have seen Patton Parkway. It's pretty much in the center of the city. It's one block away from the intersection of Georgia Avenue and MLK. Most of the public facilities that are there were built around the 1950s. I went around and took pictures just to see what the current status was, so I'll flip through them fairly quickly.

This is the center median that was built. It's about 20 feet wide.

This is the flag pole that was mentioned. That may be a close-up.

This memorial is sponsored by Post 14, American Legion, 1948, I believe; 1949. That's at the eastern end of the parkway.

Landscaping; this is the World War II monument that includes, I think you said, 680 names. We transcribed every single one of those names into the Petition for Waiver of individuals from the county and the area that died in World War II.

That's the eternal flame that was also built in the 1950s.

That's the marine memorial that there is a close-up of. This is the western end at Patton Parkway and Georgia Avenue.

I'll talk briefly about why we got to where we got. I mentioned earlier that the parkway has been of significant interest in the public's mind for at least the last five years. There was a plan called the Center City Plan which engaged several hundred Chattanoogaans. There was a full year process called Chattanooga Forward, which also engaged several hundred citizens. More recently there was an Innovation District Framework Plan which established an innovation district that includes Patton Parkway. That planning process recently concluded. It also involved several hundred members of the public.

Many of the features and the driving forces of the parkway that were recognized by the public include a respect for history, creation of excellence in the public realm, a sense of destination and connectivity. Obviously Patton Parkway is an important public space in the downtown and the city center and the innovation district. As I mentioned before it's closer than ever. As UTC moves southward and westward towards the center of the downtown, Patton Parkway becomes an important public space for students as well.

Historically, as Mr. Noblett mentioned, the parkway housed what was built as a market building built in 1896. The original configuration of Market Square included the approximately 50 feet wide market building flanked by very narrow alley spaces that were used for loading for the market and for circulation. As the parkway evolved into its current-day

configuration in the late 1940s and '50s, the Market Square was replaced by approximately – what stands there now – about a 20-foot wide center median with one-way and diagonal parking on either side of the space.

The current configuration gives over 75 feet of space for the circulation and parking of cars. The median is not particularly flexible for a wide range of uses. We showed some photographs earlier – additional photographs – that show a nicely designed landscaped median that is in need of a refresh.

Initial concepts of the re-design focused on retaining the existing configuration and simply renewing the materials. As we began to engage stakeholders in the early part of design it became apparent that the configuration didn't provide the flexibility of use that the public was asking for. We think the goal was to maximize the space for people. It became overwhelmingly clear that the current configuration was not for maximizing the space for people but instead was disproportionately emphasizing the space as a place for cars.

Further, as we began to imagine what a new Patton Parkway meant for the city we kept returning to its historic function as a public market. This is not the market. This is a sample of the market on the left. You have all been to a public market, I'm sure. A design concept emerged that we believed more truly represented this historic function. A traditional market building is typically characterized by a large canopy over a central

circulation isle that is flanked oftentimes by kiosks on either side. The market in Chattanooga I think of, you walk down the middle and there are farmers or artists on either side that you can engage with and shop with. As we begin to imagine outdoor public space with these same proportions, the design concepts centered around recreation of this diagram, and a public square where primary circulation happened in the middle flanked by kiosk spaces on either side, and a new dense orchard of urban trees would provide the canopy, much like the image on the right.

A modern day Patton Parkway, which is a working street that accommodates low-speed cars and parking for nearby stores and restaurants - this configuration also provides the function to be retained, which was pretty much mandated by everybody that had an interest in the Parkway. We need to retain the ability for cars to access the space and for cars to park. Again, our goal was to maximize the space for people.

Our inspiration was the historic diagram of Market Square where the center space would work in much the same way that a historic market would work.

By a reconfiguration of the space to create circulation of people and cars in the middle we retain the ability for the space to be able to accommodate parking for cars during regular day usage. This consolidates the space for circulation of cars such that the space is retained for people always is maximized. So earlier I mentioned because there were one-way

arrows on either side, when you navigate in and out of diagonal spaces they require a lot of space for the cars, especially in modern day when cars have gotten bigger. Because you do that on both sides of the median you end up using a lot of space. If you consolidate all of that in the middle you can compress it so that you maximize the space for people who are going or proposing to go from what is about an eight-foot sidewalk zone on either side of Patton Parkway to about a 25-foot pedestrian zone that would include space for stores and cafes up against the buildings, as well as a 24-hour-a-day pedestrian only space, and accommodating the space in the middle for cars and circulation. During special events we can easily close the street and have markets and have various owner events in that space.

This is how the street we're proposing would work on a regular basis with the new orchard of trees and parking that's retained. Then on a special event those parking spaces become easily reused for kiosks.

Okay. So there are three monuments, as we have mentioned. If we go to this configuration we need to find a new location for those monuments. That's why we're here today. We're proposing two locations in our Petition for Waiver. The third option that has been requested by Frank Hughes and the group that he represents, first, the American Legion Post 14 controls the property across from Lindsey Street on this slide to the right. General Carl Levi has written us a letter expressing support for the monuments being

relocated in a public memorial plaza, in association with this property being developed.

We have met with these developers and they are favorable to this idea. We believe this location has advantages due to it being at the eastern side of the new Patton Square, and also because the design of the space would effectively extend the Parkway towards the east and create a calmer, more serene space that is still visually connected to the Parkway, and on land that has the history of the American Legion.

Q. Can you show them where that is on the map that we're looking at?

A. Lindsey Street in this location is here. This is private property currently, but we have an informal agreement that they like the idea.

There's no formal plans to develop that, but there are developers that are interested in developing it.

Because we felt like it was necessary to have an option that's on property that the city currently controls, we also are proposing a second option one-and-a-half blocks away in the current Phillips Park. This is the top of the map, so moving northward from Patton Parkway past Eighth Street to McCallie Avenue, which is Seventh Street, there is the existing Phillips Park, which is in the shadow of the Memorial Auditorium, as well as the historic county courthouse. It's an existing public space that provides a very nice opportunity for a memorial plaza, and the city controls it, so there's an advantage there.

We took the opportunity to do some design for both of these locations. We met with multiple stakeholders, as I mentioned. The general public asked for this project. The city council approved building this project, and our capital plan. As we've engaged with stakeholders and property owners on the Parkway, as well as others, about the project their response has been largely very positive. We've been engaging veterans, as I mentioned before.

One group of veterans, led by Frank Hughes, has asked for a larger volunteer process where we might develop a memorial plaza. As I've said, we're supportive of that idea being considered by the Commission.

MR. NOBLETT: I believe that is all of our presentation.

THE COURT: Do any members of the Commission have questions for Mr. Bailey?

UNIDENTIFIED SPEAKER: Has anybody objected to this proposed move?

THE WITNESS: I have not seen any formal objections. There have been some Facebook chatter that I've seen that I think is largely by misunderstanding, I think.

UNIDENTIFIED SPEAKER: I would just like to make a comment that being you are a sister city, that's a phenomenal public project you have planned there. It's a great use of space and a great design. It seems like this move makes eminent sense to me. There is no real reason for

the monuments being where they are now; their placement there. I mean, there's no significance to the place other than that's where they were placed.

THE WITNESS: Correct. There was, obviously, historical significance as to why they were put there, but there's not any modern day significance to that, in my opinion.

UNIDENTIFIED SPEAKER: Right. I mean, nothing happened there, I guess, rolled into the subject at hand.

MR. NOBLETT: That was available space, I believe, in 1950.

UNIDENTIFIED SPEAKER: Right. So it was convenient and made sense. I applaud your efforts on this and support your efforts.

UNIDENTIFIED SPEAKER: What would be your process to determine the location once you have the go ahead for the project?

THE WITNESS: The city has asked Mr. Hughes – I'm not sure if he has officially volunteered to lead the organization, but maybe by accident has. He's been very enthusiastic over the course of the last several months. We've asked him to put together a diverse committee that represents all facets of the military that would undergo a public process as well to help us identify location.

The other steps that still remain that I think are fairly well understood are we would need to identify the location, have some consensus on it, and then begin fundraising, and some construction. I think the general thought is that we would want to do this – the committee that is leading this, and I think the city included, would want to do this on currently city land to avoid the additional hurdle of trying to acquire property.

MR. NOBLETT: I guess in that regard any request would be – if y'all want to review what we've done as of December 31st, 2020, we wanted to make sure there was a drop dead date in that regard, that we would have something resolved. If not, these other two options would work.

MR. TIPTON: I have a question for counsel. Under this Act, which we're all learning as we go, a memorial may be relocated only to an existing suitable location within the state as determined by the Commission. Can we approve this petition not knowing where it's going, since we have to approve where it goes? Is that today, or is that two-step process?

MS. URBAN: The statute doesn't speak directly to a situation like this. I see it almost in a way of you're delegating your authority, so-to-speak. There are three options there. There are two specific sites and then the third option is a specific process that the city of Chattanooga is amenable to participating in that will be guided by people

who are interested in the memorials. So if you feel that that process would be appropriate for determining a third option for locating the memorial, I think it's within your discretion as the Commission to do so.

MR. TIPTON: My question is this, can we bifurcate it? In other words, can we say today yes, we approve your petition to move it? But the way I'm reading it is it can only be moved somewhere which we approve. It says the petition for memorial may be relocated only to an existing suitable location within the state as determined by the Commission. So can we bifurcate it? Can we agree today and say we approve your petition to move it, and then when they have come up with where they want to move it to come in and the Commission approve it at that time? Because the way I'm reading it, it can't be moved to somewhere without the Commission approving it.

UNIDENTIFIED SPEAKER: Your Honor, I would suggest that we have authority to move it to at least the two alternative locations that Mr. Bailey has presented today, either at the end of Patton Parkway or the Phillips Park, because we've heard evidence on that and understand what's going to be involved, although I have a couple of questions about the first alternative. If Colonel Hughes – who I will say on the record is an extremely credible person. He's working with the Medal of Honor Museum. He is a veteran of the marines. For you Civil War fans out

there he is the son of Dr. Nat Hughes, who wrote several books on the Civil War and is well known in that world, so-to-speak.

But I think Judge Tipton may be right. If the Colonel Hughes and them come up with a different thing other than these two plans y'all may need to come back and see us, Mr. Donald, because I'm like Judge Tipton, I think the statute says what it says and we really don't know what the third alternative is, although I don't have any question that whatever group Colonel Hughes is involved with is going to pick an appropriate place.

MR. NOBLETT: I don't think the city has any objection to that. We want to make sure that we've done something by December 31st, 2020 regardless so that that makes this body comfortable with where those monuments do go.

MR. ELLIOTT: We may just want to put something down in our order that we retain jurisdiction if a third alternative is –

THE COURT: I agree, if I could step in here. We did discuss this in our preliminary discussion. I'll defer to counsel on this. Ms. Urban, would it be the Department's position that if they came back – let's just say for sake of discussion that this was approved and that they can either choose one of the two locations they've identified, or this third option if it's identified by 2020 and they choose it by 2020, is it your position that they would have to file another petition or could they simply come back in and file something with the Commission to get their gratification and approval,

as long as that third option was, as Mr. Elliott said, identified as a possibility in the order that may come out of this hearing this morning? I mean, off the top of my head I wouldn't think that they would need to file another petition for a waiver as long as the third option has been recognized by this body.

Do you agree with that, Mr. Elliott?

MR. ELLIOTT: Yes.

MS. URBAN: We're looking at the language in Subdivision 8(b). It says that at the final hearing the Commission may grant the Petition for Waiver in whole or in part by two-thirds vote of the entire membership of the Commission by roll call vote. The Commission may include reasonable conditions and instructions to ensure the memorial is preserved and remains publicly accessible to the greatest extent possible.

So what we were discussing was that you could approve the first two and put in a condition that the third location determined by this committee would be permissible, perhaps, but that the city would come back before you to tell you what that chosen location would be, and at that time you would vote whether to approve it or not. So that would be part of your order, would be that condition, because you think that the location that might come by this committee might be a better publicly accessible location. So you would have issued your final order, but that would be a condition of the order. So another petition would not have to be filed.

THE COURT: Do you have any comment on that, Mr. Noblett?

MR. NOBLETT: That's perfectly acceptable to the city, Your Honor. No problem.

THE COURT: Mr. Bailey, do you think that's proper?

MR. BAILEY: Yes, I think that works.

THE COURT: Okay.

MR. TIPTON: I have another quick question.

THE COURT: Go ahead, sir.

MR. TIPTON: Mr. Noblett, if I understood, the first option there close to the Patton Avenue, is that going to be on public or private property?

MR. NOBLETT: That's on private property. Mr. Levi says, apparently, the American Legion has some option or connection with that property. That was his recommendation for that. The property at the Phillips Parkway at the top – we don't have that shown on here. Can we get back to that?

MR. TIPTON: So it is on a private property?

MR. NOBLETT: Yes. The one on the Phillips Park is actually on property owned by the city. Yes, sir.

MR. TIPTON: The second option?

MR. NOBLETT: The second option, yes, sir.

MR. TIPTON: I have to state this. I have a problem with the first one because if you put it there, we're done. Our authority is gone.

MR. NOBLETT: Okay.

MR. TIPTON: If someone turns around in 30 days and says that we don't want it no more, there isn't a thing we can do about it.

MR. NOBLETT: Okay, sir.

MR. TIPTON: We only deal with public property. If it's on private property, I just would not want to see this Commission and myself get in a situation where we approved one of these waivers and they refused to – I'm not saying you're doing that. I'm not at all. I think what you're doing here is exactly what needs to be done. Those memorials need to be moved to a prominent place. I really don't necessarily have any objection to the American Legion at all, but I do have a problem with the concept that we lose jurisdiction of these memorials.

MR. NOBLETT: I think Mr. Levi's approach for that was that it would be dedicated to the city, but I understand.

MR. TIPTON: If that property before its relocation there became city property, then I think that's up to the city of Chattanooga. I think either location is a prominent display that these memorials deserve.

MR. NOBLETT: Yes, sir.

MR. TIPTON: But I would stringently object to them being located on private property, even though the people have no such – I’m not emanating they have any such idea. I’m not just talking about in 2018. I’m talking about down the road. I would have a hard time for this Commission to relocate these kinds of memorials that we have jurisdiction to a private property where we lose it.

MR. NOBLETT: Mr. Tipton, I think you can resolve the problem by the condition, just like we did with the other option, and put a condition that they in some manner have control over the property by way of easement or by actual ownership, or something to that effect.

MR. TIPTON: In your opinion, would this Act apply to a public easement?

MR. NOBLETT: In my opinion, it would.

MR. TIPTON: Okay.

MR. NOBLETT: I mean, I think all you have to have is an interest in the property. That’s our purpose, is making sure there is public access to this and it is a public purpose here that would be retained.

MR. ELLIOTT: I think – and Mr. Bailey or Mr. Noblett – either one of y’all – the Post 14 not only owns – I think they own that whole big parking lot. They own it in fee simple. They collect their rent from the parking and that sort of thing. So it’s their property. So I think if it is approved for that thing then I think Judge Tipton’s caveat that we impose

a condition that the city have an interest in it – at least an enforceable interest that it can't be moved without us retaining jurisdiction over it.

Knowing that group, I'm sure they would be glad to do it.

Phillips Park does have one of our markers in it, does it not? It's got Abby –

UNIDENTIFIED SPEAKER: Crawford Milton.

MR. NOBLETT: Abby Crawford Milton. We may BE back here on moving one of our markers for you to do the design that you have to do. But as long as I think it stays in that park we'll probably be okay. There's no indication in your plan to move that marker except to maybe move it out of the way a little bit?

THE WITNESS: I think the marker that's currently there is located, I guess, 100 feet to the north, which is to the left on this drawing, based on what we're showing conceptually. I don't think there is interference. We wouldn't propose to move it away from that park, if it happened to be moved.

MR. ELLIOTT: Then there is a marker that is titled the Military History of Chattanooga in that park too. Will that be disturbed at all?

THE WITNESS: I may be confusing the two.

MR. ELLIOTT: Well, there is a Tennessee Historical Commission standing marker, which is I would say within 50 or 60 feet of

the church steeple. Then up towards the courthouse where the park kind of comes down to a point there is a Military History of Chattanooga marker, which I guess would come under our jurisdiction too. Even though it's not one of our markers, you know, it commemorates the Civil War and Chattanooga's role in it. Do you anticipate that having to be moved?

THE WITNESS: No.

MR. TIPTON: I have one other question. I don't know that this would apply. I'm trying to read it. I don't think it does. Like we said, we're trying to plow new ground.

I understand totally that this is going to take a while, but this won't run affine with the part of the law that says a temporary removal cannot be more than 45 days in any 12-month period? Is that talking about something else? I tried to read above it and understand it, and I don't understand it.

MS. URBAN: I believe that that provision would apply if a Petition for Waiver had not been granted.

MR. TIPTON: If it hasn't been granted, how do they move it to storage?

MS. URBAN: That's why that would be prohibited. That's trying to block somebody from saying we're just temporarily moving it for maintenance or whatever and we don't need a petition for waiver, but then we're just going to leave it in storage indefinitely.

MR. TIPTON: If we grant the application, or petition, that doesn't apply. Thank you.

MS. CAMPBELL: Beth Campbell; Commissioner Beth Campbell. I noticed on the handout the photographs of the markers where they are presently. Really they looked kind of neglected and sad. What plans do you all have for maintaining these markers when they are moved to a new location? Who will be in charge of maintaining them?

THE WITNESS: I think we go through that process with the volunteers, which is one of the great reasons that we have this effort with citizens leading the effort. But the city would ultimately take responsibility for them wherever they go. We've done some reorganization in the last couple of years. It will either be a shared responsibility of two different departments – the open spaces department or the public works department - or one or the other.

MS. CAMPBELL: Thank you.

MR. ROWE: I have a question; Commissioner Don Rowe. I am in agreement with what you're doing. I think it's perfectly reasonable. My question is about the timeline. Again, I think December of 2020 is a reasonable timeline. Could you walk through the proposal for what happens in the interim? How much time would they not be accessible to the public, and then what would happen if we're not ready in December of 2020?

MR. NOBLETT: We will be back to see you, obviously, before that occurs.

BY MR. NOBLETT:

Q. The timeline for any improvements in this area, can you give them a little bit of information about that?

A. Our current schedule has us ready for beginning in the spring of 2019, subject to the approval of the Petition of Waiver, of course. We're estimating about a 12-month construction period. So we would include full documentation of the existing monuments removal and storage as part of the project. So that would likely be as soon as late spring of 2019 that they would be taken out of the public realm and stored, and potentially stored for at least a year during construction.

In my opinion it's very aggressive to have a new plaza in place to relocate them by the end of 2020, but I think we should know whether that's happening. It does sound like if we don't meet that goal we'll have to come back here and determine if we put them in option A or put them in option B or do we store them for a longer period of time. Once we know more about that process -

UNIDENTIFIED SPEAKER: I have a question. What is Chattanooga's currently policy about selling public property to private individuals? How many readings does it take and what percentage vote does it require?

MR. NOBLETT: As far as our planning requirements for any public property we'd have to go through a mandatory referral with the planning commission. The planning commission meets monthly. In that regard, they would have to make a recommendation. If there was a decision to sell property we would have to go through an ordinance of the city, or at least approval of the city, after that mandatory referral has occurred. As an ordinance aspect it takes at least two readings on there, which would be two separate readings. I don't think we have any plans in that regard.

MR. MOORE: I do have a question. This is Mike Moore. You had mentioned fundraising in your presentation. Are there dedicated funds to pay for the movement of the monuments from one place to another or were you referring to improvements to be made at the location or addition?

THE WITNESS: I was referring to the future location. There are not funds yet for that. The volunteers, led by Colonel Hughes, understand that. That would be included in the process to determine this new plaza.

MR. MOORE: So there's no dedicated funding for the actual removal?

THE WITNESS: There's funding for our project, which would include the removal or storage, or if we chose Option A or B, we would do that as part of the project.

MR. MOORE: I mean, I understand you can't say how much it's going to cost, but I just want to make sure there is dedicated funding for the actual removal and placement. We won't put them up until we get the money, kind of thing.

THE WITNESS: Right.

THE COURT: Do you have anything else from the Commission?

All right, then. Mr. Noblett, do you have anything else you want to present at this time?

MR. NOBLETT: No more presentation, Your Honor. If you want me to do some type of summation, I can do that.

THE COURT: I will allow you to do that.

Ms. Urban, does the Department have anything else they want to add to this before we hear closing from Mr. Noblett?

Okay. Mr. Noblett, if you want to go ahead, please, sir, and make your closing.

MR. NOBLETT: I know I have to convince two-thirds of you guys by a roll call vote in this, that this is something that the memorial will be preserved and that it will be remaining publicly accessible to the greatest extent possible. That is the city's goal in this process. I have reviewed your rules of procedure under Chapter 400-70-01 and we believe that in this case the proof that has been submitted by Mr. Bailey during this

hearing does establish that there is by clear and convincing evidence these changes to relocate these World War II monuments to three potential locations serves the public interest and has a reasonable relationship to the other historic uses of this site as a downtown public space marketplace.

There are specific guidelines here that you have adopted here under your rules of procedure under Items A and C, which I think are significant, whether the proposed change serves the public interest or the proposed change has a reasonable relationship to the site. That's one of the things that we're requesting. We submit that the proof that is here regarding support from local residents and the veterans groups – the commemoration of this event in 1950, or the World War II monuments, we don't think that this proposed change will cause confusion to people that are looking for the site because we're trying to put something that will dedicate this area for all folks of world wars here, or wars since World War I, to have them together in one location.

There is a specific number of items – Items D, H, I, J, K - that are agreed to here because those are y'all's rules in connection with this matter. But all of those talk about whether the change in this case would cause some sort of confusion, or whether it's in conformance with the character of what we're trying to do in this case, whether it would detract from the commemoration of this event or a figure or organization, and whether it would have some sort of confusion for the visitors to the site. We

don't believe it will. We believe that this relocation that we're requesting in this case – we've defined those two locations where we know currently will occur, and a third location if it is approved by a local veterans group. That's what we were looking at as well.

We would propose to bring that to you. I have no objection to that in that regard if a third location is suggested. We propose to do this within a reasonable timeframe. Based upon that we believe there is clear and convincing evidence in this record that would justify the request by the city.

THE COURT: Thank you, Mr. Noblett. We do have proposed findings for the Commission.

MR. NOBLETT: I brought you 35 sets. I did bring hard copies of 35 sets. If you need to make changes to it I've also got an electronic version where y'all can look at it.

MR. McINTYRE: What I would suggest is that we circulate the 35 hard sets with the members of the Commission and then perhaps one of us can make a motion to adopt.

THE COURT: I agree. Let me make a few very brief comments to the Commission in the form of a charge and then I will ask Mr. Noblett to pass out the findings, and the chair can conduct deliberations. It's the responsibility at this time to make a final decision in this matter, which will be the final order of this Commission. The issue in this case is whether

or not to grant or deny the Petition for Waiver that's been filed by the City of Chattanooga.

You must consider the evidence that has been presented to you today, which has been through one witness, Mr. Bailey, as well as the exhibits that the city has put forward.

I wanted to read to you one more time - we've discussed it - but the Tennessee Code Annotated 41-412- 8. It says that in order for a waiver to be granted the public entity seeking a waiver shall demonstrate by clear and convincing evidence a material or substantial need for a waiver based on a historical or other compelling interest exists. Paragraph B states that at this hearing the Commission may grant a petition for a waiver in whole or in part by a two-thirds vote of the entire membership of the Commission by roll call vote. The Commission may include reasonable conditions and instructions to ensure that a memorial is preserved and remains publicly accessible to the greatest extent possible. Any petition for waiver that fails to receive a two-thirds vote shall be denied.

Your Rule 0400-70-1011 on waivers includes a list of a number of criteria that you may use when you evaluate this petition. I won't take the Commission's time to read all of this to you. You have it in front of you. Mr. Noblett has referenced some of the ones that he thinks are most pertinent in this case. I'll also state to you that Paragraph 2 of that same rule states that the enumerations of the considerations in Paragraph 1 of this rule

does not prevent the Tennessee Historical Commission from taking into account other considerations.

As I stated to you at the beginning of the hearing I will not participate in the decision that is made on the merits of the petition. That is up to the Commissioners to decide. However, I will be available for any questions or assistance that you may need.

My suggestion to you, Madam Chair, at this point is to give all the Commissioners a moment to review the proposed findings filed by Mr. Noblett. I will also, of course, advise the Commissioners that this document is not evidence in this case. This is merely a proposed finding by Mr. Noblett for the city. The Commissioners can use this as a guide. They can make any modifications that they deem appropriate, or they may adopt it in its entirety if they feel it has been established by the evidence in this case.

If you have no questions of me at this time I will turn it over to the Chair to conduct the deliberations.

MADAM CHAIR: So at this time we'll take, say, ten minutes at this point.

MS. URBAN: Depending on which way the deliberations go we've drafted what we've heard so far from things the members have said. So if at any time they would like us to read relative to the conditions that have been suggested we'd be happy to do that.

MADAM CHAIR: Do we have to do that publicly or you can –

MS. URBAN: Probably publicly, but we can wait and see where we end up. We have sort of tried to draft what we heard people say.

MS. NOBLETT: I'm going to be prepared to make a motion that incorporates the conditions that I think we heard. You can correct me if I didn't get them quite correct.

MS. URBAN: Sure.

THE COURT: I wonder if we can maybe get a confirmation of how many votes we would need that would constitute two-thirds of the entire membership?

MADAM CHAIR: Ashlee, do you have that, or do you need to calculate that?

MS. ASHLEE: I believe that is 18.

MADAM CHAIR: Did everyone hear that? It's 18.

MS. ASHLEE: There are 19 of us.

THE COURT: Don't discuss this matter with each other while you're out in the hall or anything during the recess.

(Brief recess observed.)

MR. McINTYRE: I have a motion to make relative to this petition. My motion is that from the proposed findings of fact filed by

the City of Chattanooga that the Commission find the following facts.

Should I recite them, Judge Stovall? I think since they're all in the record –

THE COURT: You don't need to recite them.

MR. McINTYRE: We find that the following facts have been established by clear and convincing evidence; Fact 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. I didn't hear much on 11, Mr. Noblett, so I'm not going to say 11. Then 12, 13, 14, 15, 16 and 17. That we adopt the conclusions of Law 6 and 7 kind of as findings of fact, because they are more of a factual finding. I don't think we're in the business of adopting conclusions of law. That's for the judge. But that we find that all of those are established by clear and convincing evidence; that we approve Alternate 1, but impose the condition that Alternate 1 requires that the space – if Alternate 1 is used, that that space be dedicated to the city by the land owner, whether it be Post 14 or whoever is the land owner, for the purpose of the city owning that parcel of land; if you use Alternate 1.

Also that we impose the condition that if Colonel Hughes or an alternate group proposes a viable third location accepted by the city that the city return to us for approval of that third location.

That is my motion.

MS. MOORE: I second that motion.

MADAM CHAIR: At this time, do we need a roll call vote?

MS. URBAN: May I ask a question?

THE COURT: Yes.

MS. URBAN: The Commission itself issues the findings of fact and conclusions of law in the order so I believe that it would be within the purview of the Commission to determine what its conclusions of law –

THE COURT: Yes, I agree. In the conclusions of law it is the responsibility of the Commission to make its conclusions of law. In this case it would be your references to the paragraphs which, I believe, are 6 and 7.

MR. McINTYRE: I read the statute just to say findings of fact. If we are to issue conclusions of law then I suggest that we – I will amend my motion to include in addition to findings of 6 and 7 that I've already incorporated in my motion, that we make Conclusions of Law 1 through 9.

MR. TIPTON: Number 8 would be replaced?

MR. McINTYRE: Yes, Number 8 would be replaced. So Number 8, and I think Number 9, is still okay, Judge Tipton. Does that look okay to you?

MR. TIPTON: Yes.

MS. URBAN: Commissioner, would you mind repeating your conditions again? I apologize.

MR. ELLIOTT: Yes. There are two alternatives that are subject to approval today. The first alternative is the end of Patton Parkway/Lindsey Street alternative, which is currently owned by a third party, which is probably Post 14 of the American Legion. So if Alternative 1 is adopted it is only approved subject to the city owning the land that is at issue. I think it's got to be the symbol. I think it can be dedicated to you pretty easily, Mr. Noblett.

MR. NOBLETT: Yes, sir.

MR. ELLIOTT: Then the second condition would be on the third alternative, and that is if Colonel Hughes or an alternate group that has some credibility proposes a viable third location, which is accepted by the city – in other words, you choose to make that where you really want this to go. Then you return to us for that location. We've just not heard any proof on that.

MR. NOBLETT: Yes, sir. Any particular time that you want us to do on, or before December –

MR. ELLIOTT: I think the Alternative 2 or Alternative 3 – let's say that decision has to be made by December 31, 2020. Otherwise all you're doing is approved for 1 and 2, with the satisfaction of the condition on No. 1.

MR. NOBLETT: Yes, sir. I guess my only question in all that, there was no discussion about Alternative No. 2. Is it okay as suggested?

MR. ELLIOTT: It's fine. My motion is that the city owns the property and you may have to come back about Abby Crawford Milton, but right now you're okay.

MR. NOBLETT: We will try not to move anyone.

MS. URBAN: The vote to approve the third location would be a two-thirds vote of the entire membership.

MR. ELLIOTT: That's my motion, Madam Chairman.

MADAM CHAIR: Is there a second?

MS. MOORE: I amend my second to comply with Mr. Elliott's motion.

MADAM CHAIR: At this time we need a roll call vote, Ashlee.

MADAM CLERK: Mr. Earnie Bacon?

MR. BACON: Approve.

MADAM CLERK: Ms. Beth Campbell?

MS. CAMPBELL: Approve.

MADAM CLERK: Mr. Allen Carter?

MR. CARTER: Approve.

MADAM CLERK: Dr. Ken Dollar?

DR. DOLLAR: Approve.

MADAM CLERK: Mr. Sam Elliott?

MR. ELLIOTT: Approve.

MADAM CLERK: Mr. Jeremy Herrold?

MR. HERROLD: Approve.

MADAM CLERK: Ms. Lonnie Harris?

MS. HARRIS: Approve.

MADAM CLERK: Mr. Troy Heape?

MR. HEAPE: Approve.

MADAM CLERK: Ms. Tiny Jones?

MS. JONES: Approve.

MADAM CLERK: Ms. Lucy Lee?

MS. LEE: Approve.

MADAM CLERK: Dr. Bill Lyons?

MR. LYONS: Approve.

MADAM CLERK: Ms. Linda Mossmines.

MS. MOSSMINES: Approve.

MADAM CLERK: Ms. Joanne Moore?

MS. MOORE: Approve.

MADAM CLERK: Mr. Don Rowe?

MR. ROWE: Approve.

MADAM CLERK: Judge David Tipton?

MR. TIPTON: Approve.

MADAM CLERK: Ms. Derita Williams?

MS. WILLIAMS: Approve.

MADAM CLERK: Mr. Don Johnson?

MR. JOHNSON: Approve.

MADAM CLERK: Mr. Mike Moore?

MR. MOORE: Approve.

MADAM CLERK: Mr. Chuck Cheryl?

MR. CHERYL: Approve.

MADAM CLERK: You met the quorum.

THE COURT: All right. If there's nothing further we stand adjourned in this proceeding. Thank you very much.

MADAM CHAIR: So at this time we're adjourned from the hearing, but our meeting is not officially ended.

So is there any other business that needs to come before the Commission at this time?

If not, I need to hear a motion that we adjourn the meeting.

UNIDENTIFIED SPEAKER: So moved.

UNIDENTIFIED SPEAKER: Second.

MADAM CHAIR: I thank everybody for your cooperation today. (Proceedings concluded.)

REPORTER'S CERTIFICATE

I, Caren C. Neal, DO HEREBY CERTIFY that the foregoing proceedings were taken at the time and place set forth in the caption thereof; that the witness was duly sworn or affirmed to tell the truth; that the said proceedings were stenographically reported by me in shorthand; and that the foregoing pages constitute a true and correct transcription of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor do I have any interest in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 30th day of November, 2018, at Hendersonville, Sumner County, Tennessee.

Caren C. Neal

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