



**PLANNING COMMISSION
and
HISTORIC PRESERVATION COMMITTEE
SPECIAL JOINT WORKSHOP**

**COUNCIL CHAMBER, 401 CALIFORNIA AVENUE,
BOULDER CITY NV 89005**

**Wednesday
October 19, 2016 –
To commence after adjournment of the regular
Planning Commission meeting at 7:00 PM**

THIS IS A SCHEDULED WORKSHOP ONLY; NO ACTION WILL BE TAKEN

ITEMS LISTED ON THE AGENDA MAY BE TAKEN OUT OF ORDER; TWO OR MORE AGENDA ITEMS FOR CONSIDERATION MAY BE COMBINED; AND ANY ITEM ON THE AGENDA MAY BE REMOVED OR RELATED DISCUSSION MAY BE DELAYED AT ANY TIME.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS ON THE AGENDA FOR ACTION. EACH PERSON HAS UP TO FIVE MINUTES TO SPEAK. IF AN AGENDA ITEM IS ALSO LISTED AS A PUBLIC HEARING, PERSONS MAY WAIT TO SPEAK UNTIL THAT PARTICULAR ITEM.

AGENDA

For possible action: APPROVAL OF AGENDA

1. Discussion of proposed amendment to Chapter 11-27 of the City Code, Historic Resources, Purpose statement (AM-16-327)
2. Public Comment

Each person has up to five minutes to speak. Comments made during the Public Comment period of the agenda may be on any subject. There shall be no personal attacks against the Chair, members of the Planning Commission, Historic Preservation Committee, the City staff, or any other individual. No person, other than members of the Planning Commission, Historic Preservation Committee and the person who has the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission or Committee without the permission of the Chair

or Presiding Officer. No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.

Supporting material is on file and is available for public inspection at the City Clerk's Office, 401 California Avenue, Boulder City, Nevada 89005 and the Boulder City website at www.bcnv.org, as per NRS 241. To request supporting material, please contact the City Clerk at (702) 293-9208 or lkrumm@bcnv.org.

Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the City Clerk by telephoning (702) 293-9208 at least seventy-two hours in advance of the meeting.

This notice and agenda has been posted on or before 9 a.m. on the third working day before the meeting at the following locations:

Boulder City Hall, 401 California Avenue
United States Post Office, 1101 Colorado Street
Boulder City Senior Center, 813 Arizona Street
Boulder City Parks & Recreation, 900 Arizona Street
www.bcnv.org

Item 1 - Workshop Discussion

SUBJECT:

Discussion of proposed amendment to Chapter 11-27 of the City Code, Historic Resources, Purpose statement (AM-16-327)

ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
☐ Item 1 report	Cover Memo
☐ Item 1 backup	Backup Material



Agenda Item No. 1 Planning Commission/ Historic Preservation Committee Joint Workshop October 19, 2016

**BOULDER CITY
PLANNING COMMISSION**

CHAIRMAN
JIM GIANNOSA

MEMBERS:
COKIE BOOTH
GLEN LEAVITT
PAUL MATUSKA
FRITZ McDONALD
JOHN REDLINGER
STEVE WALTON

Staff Report

TO: Planning Commission
FROM: Susan Danielewicz, City Planner
Community Development Department

DATE: October 13, 2016

SUBJECT: Discussion of proposed amendment to Chapter 11-27 of the City Code, Historic Resources, Purpose statement (AM-16-327)

**BOULDER CITY
HISTORIC PRESERVATION
COMMITTEE**

CHAIRMAN:
STEVE DARON

MEMBERS:
ALAN GOYA
LINDA GRAHAM
KIERNAN MCMANUS
(ONE POSITION VACANT)

Action Requested: This is a non-action item, for discussion only.

Information: The Historic Preservation Committee (HPC) has proposed an amendment to the Purpose statement of the Historic Resources chapter, being Section 11-27-1 of the City Code. At the Planning Commission (PC) public hearing on August 17, 2016, the Commission did not recommend approval of the requested amendment for the following reasons:

- Some Commissioners thought that some of the wording would place a legal obligation on the City to make further amendments to the chapter.
- Some Commissioners thought that the proposed Purpose language pertaining to the Committee should be moved to the portion of the chapter that addresses the Committee's duties.

At the City Council public hearing on September 27, 2016, Council members requested a legal opinion from the City Attorney regarding any potential obligations of amending the Purpose statement as drafted, and also requested that the PC and HPC come up with wording revisions that would be satisfactory to both groups. To move this matter forward, a joint meeting is scheduled for the PC and HPC to address the wording issue. The City Attorney's opinion will be provided at the meeting.

MEETING LOCATION:
COUNCIL CHAMBERS
401 CALIFORNIA AVENUE
BOULDER CITY, NV 89005

WEBPAGE:
WWW.BCNV.ORG

CITY MANAGER:
DAVID FRASER

DEPUTY CITY CLERK:
TAMI MCKAY

**COMMUNITY DEVELOPMENT
DIRECTOR:**
BROK ARMANTROUT

CITY PLANNER:
SUSAN DANIELEWICZ

Note: regarding the issue of moving the Committee “purpose” language to the section on Committee duties, this has been addressed in the attached draft revision.

Attachments:

Draft code amendment, Purpose statement (draft 4, 10/12/2016)

Connecticut model code, Purpose section

Chapter 11-27, current version

PC minutes excerpt, 08/17/2016

HPC minutes excerpt, 08/24/2016

CC minutes excerpt, 09/27/2016

HPC minutes excerpt, 09/28/2016

SD09191A.docx

CHAPTER 11-27
HISTORIC RESOURCES

(EXCERPT for 11-27-1)

11-27-1 PURPOSE

The purpose of this Chapter is to provide regulations for those areas, districts, sites, and buildings which have been designated as having significant character, interest, or value as part of the development, heritage, or cultural characteristics of Boulder City, the State of Nevada, or the Nation. The purpose of this Chapter is further to promote the educational, cultural, economic, environmental, and general welfare of the city by:

A. Protecting the historic and architectural character of properties and districts that are listed on the National Registration of Historic Places or the State Register of Historic Places;

B. Encouraging the adaptive use and reuse of historic structures, thereby stabilizing and improving property values and strengthening economic activity and the local economy;

C. Protecting and enhancing the attractiveness of the city to homeowners, homebuyers, residents, tourists, visitors, businesses and shoppers;

D. Fostering civic pride in the city's history and development patterns; and

E. Protecting historical continuity and enhancing the neighborhood character of the city.

11-27-2 DUTIES OF COMMUNITY DEVELOPMENT DEPARTMENT AND HISTORIC PRESERVATION COMMITTEE

A. Community Development Department. The Community Development Department of Boulder City is hereby charged with the administration and enforcement of the provisions of this chapter of the ordinance. The Community Development Department shall prepare and maintain the Boulder City Historic Registry, which shall be a list of all properties included as part of a Historic Area or District, or designated as a Landmark Site or Building of Historic Significance pursuant to this Chapter. All properties already listed as part of the Boulder City Historic District on the National Register of Historic Places are automatically included on the Boulder City Historic Registry.

B. Boulder City Historic Preservation Committee. The Boulder City Historic Preservation Committee, hereinafter Historic Committee, shall be established to advise the Planning Commission and City Council and to aid property owners in maintaining and enhancing the worthwhile historical resources of Boulder City. The duties of the Historic Committee are as follows:

1. To advise the Planning Commission and the City Council on the designation of Historic Areas, Districts, Landmark Sites and Buildings of Historic Significance;

2. To advise the Planning Commission and City Council on matters pertaining to Historic Resources;

3. To draft and recommend to the Planning Commission and City Council the adoption of Historic Development Guidelines for rehabilitation and new construction pertaining to Historic Resources; and,

4. To apply, in conjunction with Staff, the adopted design guidelines in a reasonable and flexible manner to prevent the unnecessary loss of the city's historic character and to ensure compatible rehabilitation and development in historic districts;

Comment [SD1]: This revision and those in red following reflect the moving of the "Committee purpose" language from the earlier draft based on the Connecticut model code language. The Committee has always been the body that drafts the recommended guidelines.

Comment [SD2]: The Committee's request is to keep this language from the Connecticut model code. The language is modified to reference Staff's involvement, to better reflect that the Committee alone does not "apply" design standards/guidelines, given that Section 11-27-5.C specifies that compliance with adopted guidelines is voluntary. Staff reviews plans first for compliance with guidelines; only if the plans don't conform to guidelines does the Committee have opportunity to comment.

45. To aid property owners by providing information about maintaining and enhancing their properties in a manner consistent with adopted or otherwise established guidelines;

56. To advise the Planning Commission and City Council on matters pertaining to the drafting of new ordinances for implementation within the established historic districts of the City. Does not include ordinances applicable community-wide or of a non-zoning nature;

7. To foster appropriate use and wider public knowledge and appreciation of distinctive areas, sites, structures, features and objects that have historic or architectural significance;

8. To provide a resource for information, education and expertise to those interested in rehabilitation or construction in a historic district or of an historic structure; and

9. To encourage preservation, restoration and rehabilitation that respects the historic, cultural, and architectural significance of distinctive areas, sites, structures and objects.

C. Committee membership. The Historic Committee shall consist of no more than five (5) persons. Committee members shall be Boulder City residents, and shall not serve on any other City committees or commissions, nor hold any City office.

D. Length of Term for Committee members. Term of service shall be limited to three (3) years, with no more than two (2) members having a term expire in any given year. Original appointments to the Committee shall have staggered terms assigned to new members with one member serving for one year, two members for two years, and two members for three years. All subsequent terms shall be for three years. Vacancies shall be filled by the City Council, with the replacement member to serve out the remaining term.

E. Meetings. The Historic Committee shall meet on a monthly basis as needed through the calendar year. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

Model Historic Preservation Ordinance, pursuant to Connecticut General Statutes Section 7-148, as amended by P.A. 13-181

Section 1. Legislative Authority

The purpose of this ordinance is to protect the historic and architectural character of properties and districts that are listed on, or under consideration for listing on, the National Register of Historic Places, Section 470 of Title 16a of the United States Code, or the State Register of Historic Places, as defined in Section 10-410 of the Connecticut General Statutes, as such sections now exist or may subsequently be amended. This ordinance is adopted pursuant to the authority granted to municipalities under Section 7-148 of the Connecticut General Statutes, as amended by Public Act 13-181, and the Charter of the Town of _____.

Comments: The ordinance falls under C.G.S. 7-148(c)(10)(F), rather than under C.G.S. 7-147a et seq. (local historic districts and properties). The last clause concerning the municipal charter should be omitted if the town has no such charter.

Section 2. Specific Purpose.

The purposes of the commission established by this ordinance are to promote the educational, cultural, economic, environmental, and general welfare of the municipality by:

- (a) Protecting the historic and architectural character of properties and districts that are listed on, or under consideration for listing on, the National Register of Historic Places or the State Register of Historic Places;
- (b) Strengthening the local economy by stabilizing and improving property values and economic activity through the adaptive use and reuse of historic structures;
- (c) Fostering appropriate use and wider public knowledge and appreciation of distinctive areas, sites, structures, features and objects that have historic or architectural significance;
- (d) Protecting and enhancing the attractiveness of the locality to homebuyers, homeowners, residents, tourists, visitors, businesses and shoppers;
- (e) Providing a resource for information, education and expertise to those interested in rehabilitation or construction in a historic district or of an historic structure;
- (f) Fostering civic pride in the locality's history and development patterns;
- (g) Protecting historical continuity and enhancing neighborhood character of the locality;
- (h) Ensuring and fostering preservation, restoration and rehabilitation that respects the historic, cultural, and architectural significance of distinctive areas, sites, structures and objects;
- (i) Drafting and applying design standards in a reasonable and flexible manner to prevent the unnecessary loss of a community's historic character and to ensure compatible rehabilitation and development in historic districts.

CHAPTER 11-27

HISTORIC RESOURCES

11-27-1	PURPOSE
11-27-2	DUTIES OF COMMUNITY DEVELOPMENT DEPARTMENT AND HISTORIC PRESERVATION COMMITTEE
11-27-3	DESIGNATION OF HISTORIC RESOURCES
11-27-4	DESCRIPTION OF HISTORIC RESOURCES
11-27-5	HISTORIC DEVELOPMENT GUIDELINES
11-27-6	DEMOLITION OF DESIGNATED HISTORIC RESOURCES
11-27-7	RENOVATION/REHABILITATION OF DESIGNATED HISTORIC RESOURCES

11-27-1 PURPOSE

The purpose of this Chapter is to provide regulations for those areas, districts, sites, and buildings which have been designated as having significant character, interest, or value as part of the development, heritage, or cultural characteristics of Boulder City, the State of Nevada, or the Nation. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

11-27-2 DUTIES OF COMMUNITY DEVELOPMENT DEPARTMENT AND HISTORIC PRESERVATION COMMITTEE

A. Community Development Department. The Community Development Department of Boulder City is hereby charged with the administration and enforcement of the provisions of this chapter of the ordinance. The Community Development Department shall prepare and maintain the Boulder City Historic Registry, which shall be a list of all properties included as part of a Historic Area or District, or designated as a Landmark Site or Building of Historic Significance pursuant to this Chapter. All properties already listed as part of the Boulder City Historic District on the National Register of Historic Places are automatically included on the Boulder City Historic Registry.

B. Boulder City Historic Preservation Committee. The Boulder City Historic Preservation Committee, hereinafter Historic Committee, shall be established to advise the Planning Commission and City Council and to aid property owners in maintaining and enhancing the worthwhile historical resources of Boulder City. The duties of the Historic Committee are as follows:

1. To advise the Planning Commission and the City Council on the designation of Historic Areas, Districts, Landmark Sites and Buildings of Historic Significance;
2. To advise the Planning Commission and City Council on matters pertaining to Historic Resources;
3. To recommend to the Planning Commission and City Council the adoption of Historic Development Guidelines for rehabilitation and new construction pertaining to Historic Resources; and,
4. To aid property owners by providing information about maintaining and enhancing their properties in a manner consistent with adopted or otherwise established guidelines.
5. To advise the Planning Commission and City Council on matters pertaining to the drafting of new ordinances for implementation within the established historic districts of the City. Does not include ordinances applicable community-wide or of a non-zoning nature.

C. Committee membership. The Historic Committee shall consist of no more than five (5) persons. Committee members shall be Boulder City residents, and shall not serve on any other City committees or commissions, nor hold any City office.

D. Length of Term for Committee members. Term of service shall be limited to three (3) years, with no more than two (2) members having a term expire in any given year. Original appointments to the Committee shall have staggered terms assigned to new members with one member serving for one year, two members for two years, and two members for three years. All subsequent terms shall be for three years. Vacancies shall be filled by the City Council, with the replacement member to serve out the remaining term.

E. Meetings. The Historic Committee shall meet on a monthly basis as needed through the calendar year. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

11-27-3 DESIGNATION OF HISTORIC RESOURCES

A. Qualification for Designation. An area, neighborhood, or district may be designated as a Historic Area or Historic District; and any site, natural feature, structure, or building may be designated as a Landmark Site or Building of Historic Significance, if it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of Boulder City, the State of Nevada, or the Nation; and if it falls into one or more of the following categories:

1. Historical Significance

a. It is the location of, or is associated in a significant way with, a historic event which had a significant effect upon the City, State, or Nation; or,

b. It is associated in a significant way with the life of a person important in the history of the City, State, or Nation; or,

c. It is associated in a significant way with an important aspect of the cultural, political, or economic heritage of the community, City, State or Nation.

2. Architectural Significance

a. It embodies the distinctive visible characteristics of an architectural style, period, or a method of construction; or,

b. It is an outstanding work of a designer or builder; or,

c. It contains elements of extraordinary or unusual architectural or structural design, detail, use of materials, or craftsmanship; or,

d. It portrays the environment of a group of people in an era of history characterized by a distinctive architectural style.

3. Historic Area Significance. Because of its prominent location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of the City, and contributed to the distinctive quality or identity of the City.

B. Procedure for Designation

1. Any person, group, or association may nominate a prospective area, district, site or building for formal designation and inclusion in the Boulder City Historic Registry.

2. The Historic Committee shall review the nomination and make recommendations to the City Council. Any nomination regarding the creation of a historic area or district shall also require a review and recommendation by the Planning Commission.

3. Prior to an action by the City Council, a public hearing shall be held, notice of which shall be mailed to owners of the property proposed to be so designated (at least five, but not more than fifteen days), prior to the date of the hearing.

4. Following a determination of formal designation by the City Council, notice of the determination shall be mailed to the owners of property affected by the designation, together with a copy of this chapter and any pertinent development guidelines. Such designation shall also be entered in the Boulder City Historic Registry. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

11-27-4 DESCRIPTION OF HISTORIC RESOURCES

A. Historic Districts are relatively large areas which are generally distinguished by, but not limited to, a common development, heritage or cultural characteristic. Likely, they are synonymous with a particular neighborhood. A Historic District may contain one or more Historic Areas within its boundaries, and will likely contain several Landmark Sites and Buildings of Historic Significance. Those areas within Boulder City which have been designated as Historic Districts are as follows:

1. Boulder City Historic District

a. Boundaries. The Boulder City Historic District is that area which was listed on the National Register of Historic Places in 1983. It contains all or portions of the following streets: Denver, Lodge, Hillside, Park, Utah, Colorado, Arizona, Railroad, Ash, Date, Cherry, Birch, Nevada, Avenue A, Avenue B, Avenue C, Avenue D, California, Avenue F, Wyoming, New Mexico, Fifth, Hotel Plaza, Avenue G, Avenue H, Avenue I, Avenue K, Avenue L as depicted on the map herein. (Ord. 1470, 11-22-2011, eff. 12-16-2011)

Map of Boulder City Historic District



b. Purpose. The Boulder City Historic District encompasses the major part of the original townsite of Boulder City and contains a significant inventory of older and unique architectural styles. Lot and block sizes in this area are also characteristic of 1930's Nevada townsites, with Historic and other older dwellings which often do not conform to current development standards. The purpose of any Design Guidelines which may be adopted pertaining to the Boulder City Historic District is to:

- (1) Encourage the preservation of buildings and related structures of historic and architectural significance;
- (2) Allow improvements to existing structures or new construction to be conducted without conflict and without eroding the scale and historic character of the neighborhood; and,
- (3) Encourage the preservation and enhancement of entry ways into the Historic Boulder City Neighborhood through design and streetscape standards, where appropriate.

B. Historic Areas are generally smaller and more distinctive than Historic Districts. Historic Areas will likely contain several Landmark Sites and Buildings of Historic Significance. Those areas within Boulder City which have been designated as Historic Areas are as follows:

1. -- No Historic Areas are currently designated --

C. Landmark Sites and Buildings of Historic Significance are distinctive individual sites. Designated sites and buildings are as listed in the Boulder City Historic Registry. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

11-27-5 HISTORIC DEVELOPMENT GUIDELINES

A. Establishment of Guidelines. Guidelines for exterior design criteria may be developed by the Historic Committee, and shall be reviewed for recommendation and forwarded by the Planning Commission to the City Council for adoption. The purpose of guidelines would be to aid applicants in formulating plans for development or redevelopment relating to designated Historic Resources.

When guidelines are adopted by the City Council, the Council may specify in its resolution of approval any conditions relative to the applicability of the guidelines (for example, that there would be no delay of a building permit for an addition to a historic building that is not visible to a public street). (Ord. 1470, 11-22-2011, eff. 12-16-2011)

B. Application of Guidelines. The guidelines may apply to the following instances:

1. All rehabilitation, restoration, or reconstruction of, or addition to, the exterior of any building or improvement which constitutes all or part of a Historic Area, Historic District, Landmark Site or a Building of Historic Significance;
2. A demolition or relocation of any improvement which is all or part of a building within a Historic Area, Historic District, Landmark Site or a Building of Historic Significance;
3. New construction within a Historic Area or District, upon any Landmark Site or on the property associated with a Building of Historic Significance;
4. Any signs placed on any building within a Historic Area or District, upon any Landmark Site, or on the property associated with any Building of Historic Significance;
5. Any fences, walls, and major landscaping elements within a Historic Area or District, on a Landmark Site, or on the property associated with a Building of Historic Significance.

C. Compliance with Guidelines. Compliance with the adopted guidelines by any property owner shall be voluntary. However, proposed demolition or rehabilitation of affected structures may be delayed as per the provisions of this Chapter. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

11-27-6 DEMOLITION OF DESIGNATED HISTORIC RESOURCES

A. When any application is made for a demolition permit for a building, or part of a building, within a Historic Area or District, or for a Building of Historical Significance, the Community Development Department shall delay approval of the demolition for a period of up to 45 days, in order to:

1. Make a historical record, both written (history, floor plans and elevations) and photographic, of the structure and site.
2. Review the condition of the building to determine the impact of the demolition to the neighborhood, and the technical feasibility of preservation of the structure.
3. Allow the Historic Committee to consider and make recommendations regarding the application.
4. Make the owner aware of economic incentives available to rehabilitate historic resources.
5. Encourage the property owner not to demolish the building until an attempt can be made to locate either suitable tenants to make the building economically viable again or to find a purchaser who is willing to acquire and rehabilitate the structure. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

B. The requirement for delay of a demolition permit shall not apply to accessory buildings, except with regard to the historic detached garages at the rear of the residential lots on Ash, Birch and Cherry Streets.

C. The requirement for delay of a demolition permit shall not apply to buildings which are less than fifty (50) years old at the time the demolition permit is requested. (Ord. 1470, 11-22-2011, eff. 12-16-2011)

11-27-7 RENOVATION/REHABILITATION OF DESIGNATED HISTORIC RESOURCES

A. When any application is made for a renovation or rehabilitation permit for a building, or part of a building, within a Historic Area or District, or for a Building of Historical Significance, for which Historic Development Guidelines have been adopted pursuant to this Chapter, the Community Development Department shall delay approval of the renovation or rehabilitation for a period of up to 45 days. Said delay shall only be relative to any proposed renovation or rehabilitation which requires a building permit from the City, and which does not conform to the intent of the adopted guidelines, in order to:

1. Make a historical record, both written (history, floor plans and elevations) and photographic, of the structure and site.
2. Review the condition of the building to determine the impact of the renovation/rehabilitation to the neighborhood, and the technical feasibility of preservation of the structure.
3. Allow the Historic Committee to consider and make recommendations regarding the application.
4. Make the owner aware of economic incentives available to rehabilitate historic resources. (Ord. 1369, 11/12/2008, eff. 12/04/2008)

EXCERPT OF MINUTES

PLANNING COMMISSION REGULAR MEETING

August 17, 2016

(Agenda previously posted in accordance with NRS 241.020.3(a))

Present: Chairman Jim Giannosa
Commissioner Cokie Booth
Commissioner Fritz McDonald
Commissioner Glen Leavitt (via teleconference)
Commissioner Paul Matuska
Commissioner John Redlinger
Commissioner Steve Walton

Absent: None

Also present: City Planner Susan Danielewicz
Deputy City Clerk Tami McKay

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3. For possible action: AM-16-327 – Resolution No. 1138 – City of Boulder City, Historic Preservation Committee: A **public hearing** and recommendation to the City Council on a proposed amendment to Title 11, Chapter 27, Historic Resources, Purpose

A staff report had been submitted by City Planner Danielewicz and included in the Agenda packet.

City Planner Danielewicz provided a brief overview noting the request had been drafted by the Historic Preservation Committee. She said they were requesting an amendment to the “purpose” section to help guide the Committee in its review of further potential code amendments. She noted the proposed language had been taken from a model code for cities in Connecticut.

In response to Member Matuska about the staff report reference to another code amendment, City Planner Danielewicz noted it was necessary to bring the City’s current code into conformance with NRS because it had been discovered that the original legal notice advertising did not follow the procedure to advertise for additional weeks. She said the re-adoption would not change any of the code language, but would satisfy the legal notice requirements.

In response to Member Leavitt, City Planner Danielewicz noted the re-adoption of the code would only require City Council approval because no code language is being changed for that ordinance.

Kiernan McManus, Historic Preservation Committee member, said the Committee had reviewed several different historic codes and concluded the “purpose” language from the model historic preservation code for the state of Connecticut was also appropriate for Boulder City.

Member Leavitt said the purpose of the Historic Preservation Committee is to make recommendations to the City Council, as defined in the Charter. He said he believed some of the amended language was subjective and could back the City into a corner. He said the language he was comfortable with was Section A.2 which used the word “encouraging” because this would not be legally binding. He said he believed the new language would take power away from the Planning Commission and City Council.

City Planner Danielewicz said for clarification purposes, Member Leavitt referred to the Charter, but the Historic Resources chapter is located within the City Code and not the Charter.

Member Booth said she was in favor of the proposed language and believed it to be encouraging rather than binding.

Member Leavitt said he was not in favor of the amended language, and said more discussion was needed regarding this.

Member Booth said she believed the Committee should have a more defined purpose, as proposed.

Member McDonald questioned if the expanded purpose language provided additional authority or regulations, or enabled the Committee to do anything it couldn’t do now.

Mr. McManus said the current code purpose is only to provide regulations. He said Boulder City was unique and an expanded purpose would demonstrate the benefits of promoting and educating the public about preservation.

Member McDonald questioned why the Committee wasn’t also amending Section 11-27-2 for the Committee’s duties, and putting the new language there.

Member McManus said the proposed language is an attempt to clarify the purpose of the Committee which is to promote preservation efforts throughout the city. He said they had received a lot of positive feedback from the annual restoration workshop and tours of the filtration plant and wanted to reinforce the Historic Preservation Committee’s mission to promote a preservation atmosphere.

In response to Member McDonald, Mr. McManus agreed the proposed changes were an attempt to rebrand the Committee’s image and to promote preservation and education.

Member Redlinger said once the purpose is amended, the Committee could come back later with more changes and say they’re necessary because of the expanded purpose language.

Mr. McManus replied to Mr. Redlinger noting the guidelines were not being amended, so the processes would remain the same. The code already gives the Committee the power to create guidelines, and they have done so; this amendment is to state the value of preservation.

In response to Member Redlinger, City Planner Danielewicz said the proposed purpose language was not typical of other zoning chapters, but is typical for zoning chapters pertaining to historic preservation. She said the language did not present a legal jeopardy.

In response to Member Booth, City Planner Danielewicz affirmed the Planning Commission does not have final say on code amendments, but makes recommendations to the City Council.

Member Walton said he valued and appreciated the efforts of the Historic Preservation Committee. He said he was not in favor of the new language because the Committee should serve as the vehicle to guide the recommendations outlined in the chapter. He suggested the duties of the Committee and purpose of the chapter should be separate and distinct. He also stated the section about drafting and applying design standards sounded like it might remove an approval process from the Planning Commission and Staff.

City Planner Danielewicz said she appreciated the comments offered by Member Walton and said Staff was responsible for dividing the Connecticut model code language into purposes of the chapter vs. purposes of the Committee.

Member Leavitt said the purposes of the Committee should not be included in the purpose section for the chapter, and should be moved to the section for the Committee's duties. He suggested the Historic Preservation Committee continue its efforts to encourage and educate the community but he wasn't comfortable with the proposed language.

Member Matuska said everyone agrees with the concept of historic preservation and the attitude for this must be developed in the community. He suggested some of the language be revised and cleaned up to articulate the value of historic preservation but he was concerned some of the language may be too strong. He said he believed most of the community supports preservation. He said there was nothing in the code to prevent the demolition of historic sites and believed this should be part of a future amendment.

Member McDonald said he was not in favor of the term fostering, but could support the term promoting. He said he did not want to grant the Historic Preservation Committee the authority to draft and apply design standards. He said he was okay with the purpose of the chapter being expanded, but couldn't support some of the proposed language because he believed it could be a potential liability for the City.

Mr. McManus said the Committee intends on reviewing each section of the Historic Resources chapter and understands its role is advisory to the Planning Commission and City Council. He said the Committee is committed to placing more emphasis on preservation. He said it was important to define the Committee's purpose and have it approved by the City Council so there was a clear direction pertaining to future amendments.

Member Leavitt said he agreed with some of the comments, but doesn't want to change the purpose of the Committee to go beyond advising and recommending. He said "promoting" doesn't have to be defined in order for the Committee to be able to go out and do it. He said as a property owner, he would not want to be required to follow certain procedures.

Member Redlinger said his concern was the purpose was driving the chapter. He said the language insinuated a directive rather than a recommendation. He suggested all of the sections of the chapter be reviewed for changes and all of the amendments be reviewed and approved at one time.

Member Booth said she thought the amendments were well written and was in favor of the changes.

Chairman Giannosa said there is a lot of historical value in Boulder City and promoting preservation was important. He said he was concerned about possible ripple effects of this code language in the future. He said he could support the changes if they applied only to publicly-owned properties, but was concerned about applying requirements to private property owners. He said the existing language is vague but this doesn't help.

Chairman Giannosa noted this was the time and place scheduled for a public hearing and asked for public input.

Kiernan McManus said he believed the proposed language was not unusual and was also similar to the language adopted in Carson City, Nevada. He said the Committee members had attended a preservation seminar sponsored by national professionals, and believed the proposed language didn't require preservation, but encouraged it.

There being no further comments offered, the public hearing was declared closed.

Motion: Recommend denial of AM-16-327 and recommend that the Historic Preservation Committee continue the review process and bring back a revised request for further consideration.

Moved by: Member Leavitt. **Seconded by:** Member Giannosa.

In response to Member McDonald, City Planner Danielewicz noted the applicant had the right to still move forward to the City Council for consideration of their original language, or they could choose to wait and bring back further revised language for the Commission to consider first.

Member McDonald urged the Historic Preservation Committee take the Planning Commission's comments into consideration and revise the language.

Vote:

AYE: Chairman Jim Giannosa, Member Fritz McDonald, Member Glen Leavitt, Member Paul Matuska, Member John Redlinger, Member Steve Walton (6)

NAY: Member Cokie Booth (1)

Absent: None (0)

The motion was approved.

EXCERPT OF MINUTES

Large Conference Room
City Hall

August 24, 2016
7:00 PM

BOULDER CITY

HISTORIC PRESERVATION COMMITTEE REGULAR MEETING
[Agenda previously posted in accordance with NRS 241.020.3(a)]

Chairman: Steve Daron
Members: Alan Goya
Kiernan McManus
Alan Stromberg
Absent: Linda Graham

Also present: Susan Danielewicz, City Planner, Community Development Dept.

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6. For possible action: Discussion of Chapter 11-27 of the City Code, Historic Resources

A staff report had been submitted by City Planner Danielewicz and included in the agenda packet.

City Planner Danielewicz summarized what happened at the Planning Commission meeting on August 17th on the discussion of the Committee’s proposed code amendment to the “purpose” statement of the chapter (file AM-16-327). She said one of the Commission’s concerns was that the current code is not regulatory but some of the proposed amendment language leads them to believe the Committee will later propose code amendments that could be more regulatory in nature. She said that some also preferred that the purpose language for the Committee be incorporated into Section 11-27-2 where item B spells out the duties of the Committee.

Besides Member McManus who was present at the Planning Commission meeting, Members Daron, Goya and Stromberg said they had all listened to the recording of the meeting.

Member McManus said some of the Commissioners thought that the purpose language was unusual but the Committee knows that this language is typical for historic resources codes. He said one Commissioner thought the new language should only apply to public but not private property, and noted that nothing in the proposed language imposes any cost to anyone. He said some Commissioners seemed to think that the language would somehow take duties away from the Commission, but the purpose of the chapter already is to delegate matters related to historic preservation to the Historic Preservation Committee.

Member McManus asked if the Committee wanted to further revise the language, or take the original proposed language to the City Council. He thought the best course would be to look at the Planning Commission’s suggestions, and perhaps to eliminate the portion that refers to the Committee’s purpose/duties for now. He said he felt the

Commission only had the information in the packet to refer to, and did not know how much time the Committee has spent researching this, to know where they were coming from.

Member Stromberg said he listened to the recording twice, and didn't think the Committee would be able to come up with revised language that would satisfy the Planning Commission.

Member McManus said that Commissioner Booth was in favor of the language, and a couple of others implied that they would be in favor with some minor changes. He said he would abide by the vote of the Committee, but thought that the Committee should work on the language a little further and bring it back to the Commission.

Member Goya suggested taking the proposed language to the City Council and see what their appetite is for this. He said he would also like more input from the public on this topic, and whether they thought the code should remain as is or become stronger.

Member Stromberg thought the Planning Commission would have an appetite for the proposed changes but they didn't, and he didn't see the point in wasting time by trying to attempt further revisions. He said by taking this to the Council, they will learn what the Council wants.

Member McManus thought that having the two portions (A and B) of the purpose language took away from what a mission or policy statement should be, and that the purpose and duties should be separated. He thought that the draft language could be revised back to the Connecticut version, so as not to distinguish between purposes of the ordinance vs. the Committee.

Member Stromberg said he didn't see a problem with the new language spelling out the purposes of the chapter and the Committee. He said the language doesn't spell out any new laws, it just provides more guidance for the Committee; the Committee is still an advisory board and can't force anyone to do anything.

City Planner Danielewicz said Staff had changed the original Connecticut code language to distinguish between purposes of the ordinance vs. the Committee, since it wasn't logical to state that, for example, the purpose of the code was to "foster ... wider public knowledge and appreciation..." of historic resources. She said a code, by definition, is regulatory; but Boulder City's historic resources chapter is not as regulatory as other zoning chapters because it created the Committee to be advisory. What she heard the Commission recommending, besides softening some of the terms, is that the purpose language for the Committee be moved to the section on duties for the Committee, although Staff did not have an issue with this either way.

Member Goya said the Committee needs to focus on what the best strategy is to get their message to the public and the Council.

Member McManus said it would be important to provide the Council more background information as to the reasons the Committee is doing this, because the feeling he got at the Planning Commission meeting is that they didn't really know the Committee's

reasons for wanting to do this; to the Commission this amendment seemed to come out of nowhere.

Member Stromberg said the staff report to the Planning Commission did explain the Committee's reasons for wanting to move forward with this amendment. Member McManus agreed but said this needs to be emphasized more, and maybe they should do a short PowerPoint presentation about the development of historic codes. Member Stromberg didn't think a PowerPoint presentation would help, but more background information from Staff might help.

Members discussed that there was an opportunity to have more public present at the Council meeting, such as members from the Boulder City History & Arts Foundation, to speak in favor of the amendment.

Chairman Daron asked about the process when the Planning Commission recommends denial of a code amendment, and City Planner Danielewicz explained that the Council does take the Commission's recommendation very seriously, but will still give the matter due consideration and not vote based solely on the Commission's recommendation.

Members discussed moving the amendment forward to the City Council in order to get feedback from the Council as to whether they agree this is the right direction for the Committee to work towards. They agreed that doing so was not intended to be seen as being dismissive of the Commission's concerns, but to see if the Council had those same concerns or not.

Chairman Daron thanked Member McManus for doing an excellent job at the Planning Commission meeting.

Member McManus said more of the Committee members should attend the Council hearing to provide background and answer questions about their recent training and what they've learned about historic resources codes.

Members discussed whether to leave the purpose language for the Committee under the overall purpose section (11-27-1) or whether to move that portion to Section 11-27-2.B along with the duties of the Committee. City Planner Danielewicz said Staff would not object to either option, and noted that the Connecticut model language could be provided to the Council for reference.

Member McManus said a key point will be to explain that the Committee is open to suggestions from the Council, and simply wants further direction on this matter.

Members agreed to move forward with the existing proposed language to the City Council for public hearing in September.

City Planner Danielewicz explained the bill process, noting that there would be no discussion allowed for the introduction of the bill and that the hearing and discussion will take place on the fourth Tuesday in September. She said she would keep the Committee members apprised of the meeting process for this item, including if there were any delays for any reason.



DRAFT EXCERPT OF MINUTES

**CITY COUNCIL
REGULAR MEETING MINUTES**

**COUNCIL CHAMBER, 401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005**

Tuesday, September 27, 2016 – 7:00 PM

Council members present: Mayor pro tem Walker, Council member Peggy Leavitt, Council member Duncan McCoy, Council member Rich Shuman

Absent: Mayor Rod Woodbury

Also present: City Attorney Dave Olsen, City Clerk Lorene Krumm, Administrative Officer Bryce Boldt, Community Development Director Brok Armantrout, Acting Finance Director Doug Honey, Fire Chief Kevin Nicholson, Police Chief Tim Shea, and City Engineer Jim Keane

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7. For possible action: Matters pertaining to a zoning ordinance amendment requested by the Boulder City Historic Preservation Committee:

A staff report had been submitted by City Planner Susan Danielewicz and included in the September 27, 2016 City Council Agenda Packet.

City Planner Danielewicz offered a brief overview of the proposed code amendment requested by the Historic Preservation Committee to amend the purpose section of Chapter 11-27, Historic Resources. She introduced Historic Preservation Committee Chairman Steve Daron. She noted the Planning Commission had not recommended approval of the proposed amendment and requested it go back to the Historic Preservation Committee for revisions.

Chairman Steve Daron stated the Committee had completed an extensive amount of research of historic preservation ordinances and felt the proposed purpose statement was appropriate. He said the current historic preservation code had been adopted over 10 years ago and needed updating. He stated members of the Historic Preservation Committee had taken the opportunity to attend training regarding historic preservation matters.

Historic Preservation Committee member Kiernan McManus stated the current code language did not express the need or desire of the community. He said the amended purpose statement would not add any requirements into the code. He said Boulder City prides itself on its historical significance and the history of the community should be valued.

Council member Leavitt stated she applauded the efforts of the committee members in the research which had been completed, as well as the various trainings and the expansion of knowledge regarding historic preservation. She said Boulder City's history was part of its identity and it was important to preserve and protect its history. She said she had read the purpose statement many times, as well as the comments made by members of the Planning Commission. She said it seemed concerns from members of the Planning Commission revolved around definitions and whether or not the proposed language could be interpreted as regulatory. She said another issue was whether or not the proposed language should be moved to a different section of the Code, adding to the duties already listed under the section. She also mentioned the comments related to providing a distinction between public and private property.

A. Public hearing on a proposed zoning ordinance amendment

Mayor pro tem Walker announced it was the time and place scheduled to conduct the public hearing on a proposed zoning ordinance amendment.

Peggy Kelly Durfey expressed support of the proposed ordinance. She said citizens were concerned about the current code language being too weak. She said it was important to have strong language in the Code to prevent another situation such as the demolition of the hospital. She said she would also like to see an extension of the boundaries of the Historic District and include more homes. She said many of the homes which had been built by Six Companies had not been included in the Historic District.

Student Kallin Gallacher said the City needed to build another hospital to help those who have allergies and other sicknesses.

Janice Giannosa stated she was a homeowner on California Avenue and her husband was the chairman of the Planning Commission. She thanked the Historic Preservation Committee for its commitment and dedication to the City. She also expressed her appreciation to Historic Preservation member Kiernan McManus who had done a great job in trying to move the issue forward. She said it was a difficult task to balance the rights of the property owner while encouraging historic preservation. She also said the Historic Preservation District should be expanded to include the avenues, as well as other areas. She encouraged the City Council to explore ways to improve and restore public areas of neighborhoods in the historic area.

Blair Davenport stated the proposed revised purpose statement ensures the City values its historic resources and educates the community.

Fritz McDonald stated he served on the Planning Commission. He thanked the members of the Historic Preservation Committee for their efforts in the presentation as well as the extensive amount of research completed. He stated the areas of concern brought up at the Planning Commission meeting was the placement of the purpose statement versus duties and he explained the reasoning. In addition, the Planning Commission was concerned regarding language which could be used against the City. He stated there were minor revisions needed overall, and he was encouraged by the work which had been done and supported the efforts of the Historic Preservation Committee.

Cheryl Waites thanked Council for the opportunity to speak. She said she was speaking on behalf of many citizens who were unable to attend. She said when the Historic Preservation Committee appeared before the Planning Commission, it was immediately turned down. She said citizens have federal and state historic preservation rights and she wanted the right to protect historically significant buildings and homes. She said she was not insinuating homeowners give up property rights, but she did not want historically significant properties such as the old hospital to be destroyed. She said the Historic Preservation Committee was part of the City and were members of the community. She said she did not understand the decision of the Planning Commission. She stated she was begging the Council to listen to the concerns expressed and not deny the proposal of the Historic Preservation Committee.

Elizabeth Powell stated the City Council claimed to support historic preservation, and approval of the proposed code amendment was an opportunity to show they were serious.

No further comments were offered and the public hearing was declared closed.

Council member McCoy congratulated the committee for its good work. He said the proposed purpose statement did a good job of explaining the scope of the Historic Preservation Committee. He said he had read the material several times and did not see a dichotomy in the language between public and private buildings. He said he understood the concerns of the Planning Commission, but he did not interpret the language as oppressive or regulatory. He said the Historic Preservation Committee was an advisory body. He said he had no problem with the proposal; however, the City Attorney should review the purpose statement and determine if the language had potential consequences. He suggested the Planning Commission and the Historic Preservation Committee work together and it would be valuable to have language both committees could recommend. He thanked the committee members for their efforts.

In response to a question by Council member Shuman, City Planner Danielewicz stated the proposed language for the purpose statement had not been revised prior to being presented to the City Council; it was the same language presented to the Planning Commission. She said the members of the Historic Preservation Committee wanted the Council's input on its original proposal.

In response to a question by Council member Shuman, Historic Preservation member Kiernan McManus stated the committee desired to look at other sections of the City Code and eventually propose changes. He said he had examined many codes around the country and there were approximately 2,300 historic preservation committees nationwide. He said the City of Las Vegas had recently passed a historic preservation code but it differed substantially. He said the committee desired to serve the community and the people who live in the Historic District support additional changes to the Code. He said any other changes would go through a similar process.

Council member Shuman said he was very impressed by the work done by the Historic Preservation Committee. He said he would like to have a positive recommendation from the Planning Commission and work towards an acceptable revision. He said he did not believe the Planning Commission was trying to thwart the efforts of the Historic

Preservation Committee. He said he would prefer another round of revisions and to put the purpose statement in the correct section of the Code.

Mayor pro tem Walker acknowledged the Historic Preservation Committee had done what the Council had requested when the old hospital was torn down which was to propose changes to the City Code. He said it was necessary to have some regulations or requirements with respect to the Historic District. He said if the City had designated a Historic District, it should protect it. He stated the Historic Preservation Committee had spent a great deal of time researching and preparing the purpose statement and it was important to keep moving forward; however, he was not comfortable bypassing the Planning Commission's recommendation. He said he would prefer the City Attorney examine the statement and send it back to the Planning Commission after receiving legal input. He expressed concern with proposed paragraph B.4 regarding drafting and applying design standards. He also questioned why the Historic District boundaries could not be expanded. He said he would entertain a motion to postpone the item to bring back at a later date. He said he would be interested in Mayor Woodbury's input.

Council member Leavitt stated she would also appreciate a legal opinion from City Attorney Olsen. She concurred with Council member Shuman stating the Planning Commission was not trying to thwart the Historic Preservation Committee's efforts, but a small revision may be necessary. She stated she appreciated the purpose statement's emphasis on education, and Boulder City's history was now part of school curriculum. She thanked the members of the Historic Preservation Committee for their efforts and for taking their role seriously.

Council member Shuman offered his assistance to the Historic Preservation Committee and said it was important to work together.

Mayor pro tem Walker stated the Historic Preservation Committee had used language from a model code by the State of Connecticut, and suggested examining other areas as well.

City Planner Danielewicz stated the Historic Preservation Committee would hold its regular monthly meeting tomorrow and they may want extra time to conduct additional research.

Chairman Daron stated he had heard positive statements which would help with the revision process. He agreed legal input would be beneficial.

Mayor pro tem Walker assured the Historic Preservation Committee of his support.

B. Consideration of Bill No. 1793, an Ordinance of the City of Boulder City, Nevada to amend Title 11, Chapter 27 of the City Code, Historic Resources, Purpose (AM-16-327)

No action was taken.

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EXCERPT OF MINUTES

Large Conference Room
City Hall

September 28, 2016
7:00 PM

BOULDER CITY

HISTORIC PRESERVATION COMMITTEE REGULAR MEETING
[Agenda previously posted in accordance with NRS 241.020.3(a)]

Chairman: Steve Daron

Members: Alan Goya
Linda Graham
Kiernan McManus

Absent: None (one position vacant; Member Alan Stromberg had resigned earlier that day.)

Also present: Susan Danielewicz, City Planner, Community Development Dept.

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- 5. For possible action: Discussion of Chapter 11-27 of the City Code, Historic Resources, including follow-up discussion on a proposed code amendment for Section 11-27-1, Purpose

A staff report had been submitted by City Planner Danielewicz and included in the agenda packet.

City Planner Danielewicz summarized the City Council meeting of September 27th, at which the City Council did not act on the proposed amendment (zoning file AM-16-327). Instead, while supporting the efforts of the Committee, their direction was for the Committee to revise the language to address the concerns of the Planning Commission, and they also requested a legal opinion from the City Attorney regarding the impact of the draft language. To that end, Staff was suggesting that for October, rather than hold the regular Committee meeting on the fourth Wednesday (October 26th), instead there would be a joint workshop between the Planning Commission and the Committee after the Commission’s regular meeting on the third Wednesday (October 19th). She noted that one Council member had suggested the possibility of looking at other codes besides the Connecticut model code, and that the Committee had the option of doing that or proceeding with modifications to the draft they had already been working on. She said Staff would proceed with a request for a legal opinion on the language already presented. However, if the Committee preferred to start over by looking at other codes, there would not be a need for the legal opinion at this time or to hold a joint meeting with the Planning Commission next month. She said that if the Committee preferred to modify their current draft, a key concern of the Planning Commission seemed to be whether certain words like “protecting” had a legal implication that would obligate the City to make further code amendments that would be more regulatory than the current code is designed to be.

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Member Goya said the Committee had already reviewed several codes and he didn't see the need to reinvent the draft Purpose code amendment.

City Planner Danielewicz said she believed the Committee had actually only seen the Carson City code and the model Connecticut code. Member McManus agreed and said that those two codes were very representative of the many codes that he had reviewed from across the country.

Member Graham suggested that the Committee tweak the language and let the City Attorney review it to avoid legal problems.

Member Goya said the Planning Commission didn't provide any advice as to what language they would prefer.

Member Graham commented that she thought tweaking the language shouldn't be that difficult, and Committee members agreed to work on their draft proposal rather than start over by looking at other codes.

Chairman Daron asked if there was any public comment on this item.

Fritz McDonald, Planning Commissioner, speaking for himself, said that if the City Attorney had no problem with the language then he would support the amendment as drafted. He said the Planning Commissioners did not expect the Committee to come up with an entirely new version and were supportive of the language regarding education of the community.

John Hawley said although a legal opinion should be sought, the City doesn't have to follow the City Attorney's advice completely, and it can be a negotiation about wordsmithing. He said a legal opinion should be obtained and then go from there.

Member Goya asked about the joint meeting, and City Planner Danielewicz said Staff will see if the legal opinion can be ready by then.

Fritz McDonald suggested having the joint workshop first so that the amendment could be on the Planning Commission agenda immediately following for a new public hearing.

City Planner Danielewicz stated this might not be possible, as the legal opinion could necessitate some further changes that might not be able to be properly addressed at a public hearing the same evening.

On the simpler topic of moving the Purpose language of the Committee to the section on the Committee's duties, City Planner Danielewicz noted that new Section 11-27-1.B.4 is somewhat duplicative to existing Section 11-27-2.B.3, noting for the benefit of the audience that various design standards have already been adopted but are voluntary for owners to comply with.

Member McManus said the Committee did not intend this to be an exercise in wordsmithing; he said the code was inadequate and this back-and-forth discussion has

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already cost the Committee a valuable member. He was concerned about the proposed code being watered down. He said drafting and applying standards is what the Committee does; he was fine with keeping the proposed language regarding this as is.

The Committee indicated that they wanted to keep the language under the draft section 11-27-1.B.1 through 4 as is and move it to the Committee duties section, 11-27-2.B. City Planner Danielewicz noted that minor changes regarding syntax would be needed.

Blair Davenport said she supported the comments of Member McManus. She said that if you have a code for a historic district it is implied there will be protection of the historic district.

John Hawley said attempts to lock down language will lead to more problems; he said you will never be able to avoid lawsuits but that should not prevent action from being taken.

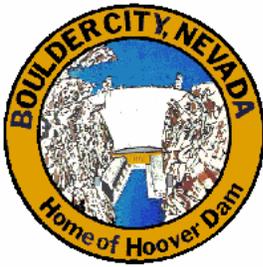
Member Goya said the City Council supports preservation and this amendment is a step forward.

Member McManus reminded everyone that the draft language from the model Connecticut code is considered legally defensible by the State of Connecticut, for those cities within the state that choose to adopt it. For Nevada, he said guidance could also be obtained from the State Historic Preservation Office (SHPO).

Peggy Durphy agreed with the comments of Members Goya and McManus, saying the current language doesn't go far enough and the ordinance needs teeth. She said many other communities have stronger historic regulations and it's just something the community comes to accept once the rules are known.

Member Goya said the historic district is the identity for Boulder City; you can't build a new historic district if it's lost.

Member Graham said the City has already done a lot for the historic district, such as the entryway arch on Nevada Way and the street signs in the district.



MEMORANDUM

Office of the City Attorney
Dave Olsen, City Attorney
Tara Thackeray, Paralegal
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Date: October 11, 2016

To: Boulder City Planning Commission and
Mayor Woodbury and Boulder City Council

From: Dave Olsen, City Attorney

Question Presented

Will passage of proposed amendments to Chapter 11-27, Historic Resources, (Section 11-27-1 Purpose), place a greater legal obligation upon the City to become more involved in protecting the historic character of Boulder City?

Brief Answer

Probably yes. Currently, the purpose of Chapter 11-27 is:

to provide regulations for those areas, districts, sites, and buildings which have been designated as having significant character, interest, or value as part of the development, heritage, or cultural characteristics of Boulder City, the State of Nevada, or the nation.

The current purpose is to provide regulations. The proposed amendment adds two new purposes:

1. The general purpose (protecting and enhancing); and
2. The purpose of the Historic Preservation Committee (drafting and applying design standards).

All of these new purposes imply action, of some sort, beyond providing regulations. Enacting this Code amendment probably obligates the City to do something to *protect* and *enhance* the City's historic assets and resources if that issue should arise in the future. It has been said that, the devil is in the details, and in this case would be based upon how *protect* and *enhance* are defined.

“Protect” generally means to keep safe from harm or injury, safeguard, defend shield, guard, watch over, look after, aim to preserve by legislating, restricting by law development that does not preserve the historical and architectural character of buildings within the City.

“Enhance” means to intensify, increase or further improve the quality, value or extent of something.

These concepts are not clearly defined in the proposed ordinance. If these concepts are not clearly defined, they would be deemed ambiguous. Ambiguous language is language that is susceptible to more than one reasonable but inconsistent interpretation. *Gallagher v. City of Las Vegas*, 114 Nev. 595, 599, 959 P.2d 519, 521 (1998).

“When construing an ambiguous statute, legislative intent is controlling, and we are required to look to legislative history for guidance.” *Washoe Med. Ctr. v. Dist. Ct.*, 122 Nev. 1298, ----, 148 P.3d 790, 793 (2006). The courts must also interpret the statute “in light of the policy and spirit of the law, and the interpretation should avoid absurd results.” *Hunt v. Warden*, 111 Nev. 1284, 1285, 903 P.2d 826, 827 (1995). Finally, the courts will resolve any doubt as to the City Council's intent in favor of what is reasonable. *See id.*

Facts

A local developer purchased a piece of private property located within the City with the intent to build homes on the property. In order to accomplish this, the developer believed he needed to demolish and remove the existing buildings located on the property. The property contained the old Six Companies hospital building (“hospital”) and some accessory buildings. These building had been identified as historic resources. Section 11-27-6 of the Boulder City Code provides the steps that must be taken when seeking to demolish a designated historic resource. The process of obtaining a demolition permit in compliance with the Code is quite simple. The developer and the City's Community Development Director were careful to follow the steps.

Another critical and complicating aspect of this case was the fact that the land and buildings in question were under private ownership. In that light, the City was very limited in what it could do to keep the buildings from being demolished.

Boulder City residents turned out in large numbers to protest issuance of a demolition permit in this instance and implore the developer and the City to reconsider demolishing the old Hospital building. Many citizens were disappointed to learn how easy it is to obtain a permit to demolish a historic building in Boulder City. Several citizens commented that the Code should be

amended to provide more rigid guidelines that would provide greater protection to Boulder City's historic assets and resources.

The Historic Preservation Committee has continued to work diligently on this matter in the hopes that future historic buildings and assets in Boulder City will not suffer the fate of the old Six Companies Hospital.

Discussion

I cannot recommend adoption 11-27-1-A of the proposed amendment to Chapter 11-27-1 Purpose, for the following two reasons:

1. The language of the proposed ordinance is susceptible to more than one reasonable interpretation and is therefore ambiguous; and
2. The language of the proposed ordinance imposes potential obligations upon the City that the City might not want to accept or cannot afford to undertake at this time.

Protecting the historic and architectural character of properties and districts that are listed on the National Registration of Historic places or the State Register of Historic Places may not be something we want to obligate the City to do. Currently the purpose of the Chapter is simply to "provide regulations." Chapter 11-27 already provides regulations governing historical resources in Boulder City.

The proposed expanded Purpose will be to *protect* the historic and architectural character of properties.

Under this new purpose, the City will also be obligated to *protect and enhance* the attractiveness of the city to homeowners, homebuyers, residents, tourists, visitors, businesses and shoppers. While this is certainly an admirable goal it does nothing to promote historic preservation.

The City will be further obligated to *protect* "historical continuity" (whatever that means) and *enhancing* the "neighborhood character" (whatever that means) of the City. This sentence emphasizes the contention that the proposed amendment is in many ways ambiguous.

By including this language in our Code, the City will arguably be obligated to *do something* to protect those areas, districts, sites and buildings which have been designated as having significant character, interest, or value as part of the development, heritage, or cultural characteristics of Boulder City."

Conclusion

Bert Lance, the Director of the Office of Management and Budget in Jimmy Carter's administration is paraphrased by an unidentified author on Page 33 of the newsletter of the US Chamber of Commerce, Nation's Business, in May of 1977. "Bert Lance believes he can save Uncle Sam billions if he can get the government to adopt the motto: **"If it ain't broke, don't fix**

it!" He explains: "That's the trouble with government: Fixing things that aren't broken and not fixing things that are broken"

The message from this old adage is this: If something is working adequately well, leave it alone. Our current ordinance works well. Let's leave it alone.