

**HISTORIC PRESERVATION COMMISSION
HEARING MINUTES
SEPTEMBER 22, 2016**

Commissioners

Scott Winnette, Chairman
Stephen Parnes, Vice Chairman
Dan Lawton
Michael Simons
Carrie Albee
Alan Miner
Peter Reagan
Matthew Bonin, Alternate

Aldermanic Representative

Donna Kuzemchak

Staff

Lisa Mroszczyk Murphy, Historic Preservation Planner (not present)
Christina Martinkosky, Historic Preservation Planner
Scott Waxter, Assistant City Attorney
Matt Davis, Manager of Comprehensive Planning
Shannon Pyles, HPC Administrative Assistant

Call to Order

Mr. Winnette called the meeting to order at 6:00 P.M. He stated that the technical qualifications of the Commission and the staff are on file with the City of Frederick and are made a part of each and every case before the Commission. He also noted that the Frederick City Historic Preservation Commission uses the Guidelines adopted by the Mayor and Board of Aldermen and the Secretary of the Interior's Standards for Rehabilitation published by the U. S. Department of the Interior, National Park Service, and these Guidelines are made a part of each and every case. All cases were duly advertised in the Frederick News Post in accordance with Section 301 of the Land Management Code.

I. Public Hearing – Swearing In

“Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Historic Preservation Commission will be the whole truth and nothing but the truth? If so, answer “I do.”

II. Announcements

There were no announcements from staff or the Commission.

anything moved, they want roads fixed and overdoses to stop but there are budgets to change street names and move monuments but where is all this money coming from with all these deficits.

O.J. Keller, member of the Francis Scott Key Memorial Foundation, stated that Roger Brooke Taney was born in 1777 in Calvert County, MD to a prominent tobacco grower family. He added that he died in October of 1864 and buried in the Catholic Cemetery at 3rd and East Street in Frederick. Taney entered Dickinson College in PA in 1792 at age 15 and graduated with honors at age 19. He went on to say that he had thought he had little future in the tobacco business because it was a family business and he had an older brother that would be in charge of the family business so he decided to read for the law and did so in Annapolis. While studying law Taney became good friends with and roommates with Francis Scott Key. Mr. Keller added that Taney was admitted to the bar in MD in 1799 at age 22 and came to Frederick in 1801 to open a law practice with his good friend Francis Scott Key and he did so until 1803. He went on to say that Taney married his partner's sister Anne Pheobe Key in 1806 and has 7 children. He stated that in 1824 he moved to Annapolis and was appointed Attorney General of Maryland and served for four years and in 1831 was appointed Acting United States Secretary of the War by President Andrew Jackson and served only 3 months. He went on to say that from 1831 until 1833 he was appointed US Attorney General by Jackson and served a little over two years. In 1833 he was appointed US Secretary of the Treasury and served 10 months. He said that from 1836 until his death in October of 1864 Jackson appointed Taney the Fifth Chief Justice of the United States and he was earlier a State Senator of Maryland for five years. Mr. Keller added that on his position on slavery, Taney was a slave holder but while in Frederick he manumitted slaves in Frederick and manumitted all the slaves that were healthy and could care for themselves but some of the older slaves he did not free but supported them by monthly allowances of silver until they died. He stated that Taney said of slave holders that unquestionably it is the duty of every master to watch over the religion and moral culture of his slaves and to give them every comfort and privilege that it not incompatible with the continued existence of the relations between them and so far as his knowledge this duty if faithfully performed by the great body of hereditary slave holders in VA and MD. He said that Taney also expressed his feelings towards the Negroes when he said to a friend "Thank God at least in one place all men are equal in the church of God." He said that those statements mimicked the teachings of the Catholic Church of which Taney was a very devote Catholic. Mr. Keller stated that in conclusion Taney is little remembered but for the Dred Scott case that we all know today but most don't know the court was a 7-2 vote with 6 other justices agreeing with Taney as a Chief Justice President Andrew Jackson and many other politicians knew Taney as a strict guardian of the Constitution and decided the Scott case on legal precedent and wording of the Constitution as he did with all other cases that came through his court. He went on to say that Taney was a star public servant holding four federal cabinet positions over 34 years and was considered kind and generous by all who knew him. He said that the Historic Preservation Commission by their duties is bound to preserve history and not to change it and Taney deserves to be remembered here in Frederick and remembered with pride. He added that the irony of this proposal is that on this very site, the Courthouse, Taney freed his slaves.

Theresa Michel, resident of Frederick, stated that she wanted to read a Letter to the Editor written by her mother Theresa Mathias Michel. She said that the title is "Tampering with Busts Will Only Hide History Not Change It." She went on to say that the citizens of Frederick County first funded the replacement of the statues of former Supreme Court Justice Roger Brooke Taney and former Maryland Governor Thomas Johnson in 1931 and now because a few people are inadequately informed on our history we are asked to pay for the removal of the statues. She said that this is tampering with historic facts and it should not be a popularity contest. She added that amid to both these men is about to be obliterated because a few deny them their rightful place in local history. She said that the Dred Scott decision is the cause of this quarrel. She stated that Taney himself freed his slaves and regretted the Dred Scott decision which he based on Constitutional law that had far reaching repercussions. She went on to day that modern scholars concur that despite the Dred Scott decision Taney was an outstanding jurist and justice administrator. She said that Chief Justice Ed Warren in 1984 said "Few men in American life and surely no Justice of the

Supreme Court have been so grossly misinterpreted as Taney. She added that Alderwoman Donna Kuzemchak stated that it was unrealistic that the general public would every associate Taney with actions beyond the Dred Scott decision and she added that 80% of the people opposed to the removal of the statues were “simply racist.” She stated that she would beg to differ strongly and it is her hope that the City of Frederick will reconsider this dilemma and leave the statues intact. Ms. Michel spoke on her own behave and stated that Frederick has an authentic community and it is what people appreciate about Frederick and enjoy and it draws people to Frederick. She said that it is not a sanitized community and she hoped the Commission would consider leaving the busts where they are.

Robert Higbie stated that at a previous meeting he wanted to impart his very strong feelings that the Taney bust should go back to the courthouse. He said that he believed that this was the original intention of the people who not only designed and desired the bust of Taney. He added that it would be more appreciated at the courthouse location because of him being in a legal profession and people in the judiciary who know a great deal about the Supreme Court Justice. He added that he realized most people do not know much about Supreme Court Justices unless they make a quick announcement and they perceive it how it is shown in the news. He stated that since that meeting a letter came out written by a Mr. Charles William “Bill” Eyler, Jr. and it is an excellent and unlike a lot of articles that get picked out this article attacks our problem about statues from many different angles which answers a lot of questions. He stated that he hoped that political correctness does not supersede historical correctness.

Peggy Dufour, citizen of Frederick County, stated that there are some technical errors or omissions in the staff report submitted at the July workshop and she provided a handout to the Commission to correct those mistakes. She said that she wanted to cover thoughts that had not yet been covered and first is the issue of what the Supreme Court was deciding in the Dred Scott case which was also a case that looked at the unconstitutionality of the Missouri compromise so they had to go back to the framers of the Constitution because they had no other black letter law and that is where the language in the Dred Scott case came from that is so objectionable to our ears and eyes today. She added that the intent of the framers was 70 years old at that point which would be like going back to World War II for us but if we try to go back 229 years to the Constitution now it would be very difficult. She stated that this controversy has made us all go look things up and read a lot more which has been very interesting and that is the whole purpose of preserving elements of history in our environment. She said that she could never understand this issue from a perspective of an African American citizen whose family has lived in Frederick for generations but after the three amendments to the Constitution that were passed to fix the problems that the Taney court found Dred Scott has more rights that were constitutionally protected than she would have had as a single white female so there is a lot of unhappiness about history to go around and removing these statues does nothing to redress those wrongs it kind of just makes things worse because in a free society we are not supposed to ban books and try to tear down statues if we don't like things and we are supposed to encourage discussion to get ideas out in the open because history is our greatest teacher.

Darlene Lassett, resident of Frederick, stated that her family relocated to downtown Frederick one month ago and about a week after they moved here her brothers sent her a link to a New York Times article about a bust in Frederick and asked her if she knew about it. She added that she did not but she thought it was right across the street from the townhouse they are living in so she took her two children and they came across to the front of City Hall to see the bust and plaque and they read the wording to that plaque so she asked her daughters if they had learned about the Dred Scott case. She went on to say that they read those words and the words were so profound although hurtful they were so real. She said that they were put where we are standing today in our country in such a historical context that the history of white supremacy is real and it not something that is new or something that should be hidden or white washed. She stated that the history in front of the courthouse and City Hall with the busts and plaques keeps that alive even though it is not comfortable for her and her daughters to read wording that slaves were

considered to be inferior beings by all civilized whites at the time and that they had no rights that any whites had to respect. She said that they could hide it and make it more comfortable for people to come into City Hall but that does not lead to the discussions that they had in their household about it. She added that it does not lead to her calling her brothers and saying that she saw it and sending them a picture of the bust and plaque with that verbiage and them saying that they had to come see it. She said that she thinks that is significant and hurtful but it puts everything into context the things that are going on in America right now. She stated that this is not going to fix itself tomorrow because it is part of the fabric of this country that we have been trying for centuries now to fix and she did not think hiding the bust is going to be helpful.

Rita Gordon, resident of Frederick, stated that her and her husband were both born and raised in this town and lived here all of their lives and they know the history quite well. She said that her daughter takes her children on trips to see things and after all they have seen she asked the children if they knew where Francis Scott Key was buried and they did not know. She stated that her and her husband had written a congressional book and when it was finished she took it to the library and the librarian told her that she had to do something for the children of this county because there is nothing written on a child's level so on July 2, 1975 she presented the Board of Education with their project and except for the chapter on ghosts and goblins the board accepted the book and it has been used as a supplemental text but when her daughter told her about the children not knowing where Francis Scott Key was buried she called one of the board members and she asked what they were doing with the text book. She added that they are now going to be teaching Frederick County history in senior high which will be digitalized so the kids can go in and learn at their own time. She stated that she is so passionate about the history of this nation and city that she begged the Commission to not change history.

Bill Eyler, resident of Frederick County, stated that he thought that we represent ourselves as a very civilized society and yet at the same time there have been a lot of societies that considered that considered themselves very sophisticated society. He said that his son, who is a constitutional lawyer, was in England representing the Department of Justice and he walked into a park across from his hotel and in the park was a bust of one of the most notorious traitors to the English crown and it happened to be George Washington. He added that you may ask why they would have a bust of George Washington in a park in London and he thought the answer was simple because it represents a moment in history and a time that shouldn't be forgotten. He stated that he is not hung up on moving the bust but they should be treated with respect because they are historical artifacts.

Jason Cray, resident of Frederick, stated that history is history and preserving it is preserving it. He said that he thought they should be kept around. He said that the outside of City Hall being a place of honor and they have to be very careful in this society of who we choose to honor. He added that it had been said all night long that Taney is tied to the Dred Scott decision and keeping it outside of City Hall for the sake of history in honoring that tie so he does not want to erase history but he is very much in favor of the City's decision to move them.

Elizabeth Shatto stated that both of the busts are sited in the National Register Nomination for this property which is something to remember and this has been the site of a courthouse since the 18th century. She added that Taney did practice at this location and the court records associated with Taney and his work here in Frederick were maintained here by the Clerk of Court until they were moved to the current courthouse location. She thought that those were facts that go into strictly the question of are these busts contributing resources or not.

Howard Cox, resident of Frederick, stated that one of the things that brought him to Frederick was its appreciation for history and you folks as part of the Historic Preservation Commission are committed to the concept of the goal pf preservation being to educate. He said that they are confronting an historical

- Motion:** Alan Miner moved to approve the application as submitted with the following conditions:
- The pattern of the new brick paving is a basket weave as requested by the applicant.
 - All new posts or railings are consistent with the existing second floor porch.
 - All wood except for wood in direct contact with the ground be non-pressure treated and painted or stained with an opaque stain.
 - The allowance for the stairs to extend an extra riser if needed to comply with code.
 - The lattice door detailed in the photo provided at the meeting would be acceptable.

Second: Stephen Parnes

Vote: 7 - 0

VIII. Citizen Comment

There were no citizen comments.

The meeting was adjourned at approximately X:XX PM.

Respectfully Submitted,

Shannon Pyles
Administrative Assistant