

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: September 19, 2008

TO: Historical Resources Board and Interested Parties

FROM: Cathy Winterrowd, Senior Planner/Program Coordinator

SUBJECT: **ITEM 5 – AMENDMENT TO THE HISTORICAL RESOURCES BOARD PROCEDURES; HRB AGENDA FOR SEPTEMBER 25, 2008**

Recently, discussions have occurred at Board meetings regarding the appropriate procedure for the HRB to not designate a property as a historical resource. A variety of terminology has been used over the past several years to describe the Board's determination to not designate a property. Prior to 2006, the term "Note and File" was used for this type of determination. The terminology was changed by the current Program Coordinator to be parallel to a determination to designate a property. Now, when HRB staff determines that a property does not meet any adopted designation criteria, the recommendation will state this determination as "do not designate." Because this language states the action in the negative rather than in the positive, the Deputy City Attorney has raised a question of consistency with Robert's Rules and a concern over confusion by the public in the required number of votes to pass a motion to not designate a property.

At the August HRB meeting, Boardmember Curry requested that the Policy Subcommittee discuss this issue and get more information from the Deputy City Attorney. The issue was discussed at the September 8, 2008 Policy Subcommittee meeting. There was general discussion of the appropriate way for the Board to not designate a property and the best wording for a motion. A suggestion for the Board to determine that a property was not historic was rejected because it was too strong and did not accurately reflect a decision that a property does not meet adopted designation criteria. There was some consensus that it is preferable to word motions in the positive and that having only motions to designate put forward for a vote provided greater clarity for the public. Following discussion, the HRB Chair suggested the Board's Administrative Procedures could be amended to address the issue and that the preferred approach is with a motion to designate a property. It was further suggested that if a motion to designate was not put forth by a Boardmember, the Chair would call for a vote to designate by a show of hands. This method would clarify the record that there was not support for designation. The issue was then referred to the full Board for action on an amendment to the Procedures.

The issue is reflected as new text in Section II Business of the Board, under a new subsection C. Formulating Designation Motions at Historical Resources Board Meetings of the attached Historical Resources Board Procedures.

HISTORICAL RESOURCES BOARD PROCEDURES

10-28-04

Revised 9-28-06; 9-25-08

I. Meetings

A. Conduct of Meetings

Except as otherwise specifically noted herein, Robert's Rules of Order shall apply to the conduct of Historical Resources Board meetings.

B. Date and Time

Meetings of the Historical Resources Board generally occur on the fourth Thursday of each month, except as adjusted for holidays or other reasons. It is expected that meetings will generally begin at 1:00 PM and end by 4:30 PM. The Board shall be on legislative recess in the month of December unless sufficient business items require a meeting as determined by a simple majority vote of the Board members at a prior meeting.

C. Management of Agendas

The Historical Resources Board's purpose is to fulfill the role of evaluating and protecting historical resources within the jurisdiction of the City of San Diego. This role includes numerous diverse responsibilities. Board members are appointed to serve in a completely voluntary capacity. In order to ensure continued quality of life for individual Board members and to strive for reasonable agendas, the Board staff shall manage each month's agenda so that the number of items scheduled can be reasonably expected to be heard by the Board within the time allotted for meetings. On occasion, the necessary business of the Board may lend itself to additional or prolonged meetings, but these instances shall be kept to a minimum and shall follow the procedures below.

D. Special or Extended Meetings; Cancellation of Meetings

The Board may set additional special meetings, cancel meetings or extend the length of current or future regular meetings, as needed, based on the affirmative vote of a majority of the Board members present at the meeting where the motion is made. The length of an upcoming Board meeting may also be extended, a special meeting may be set, or a regular meeting may be cancelled by staff, with the agreement of the Board Chair, prior to the preparation of the meeting's agenda and with appropriate notification to Board members and the public.

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E. Board Member Attendance

Historical Resources Board members are expected to attend all regular and special Board meetings, and meetings of subcommittees to which a Board member is appointed. Board member attendance shall conform to any adopted Council Policy governing City Boards and Commissions.

Absences are recorded in the minutes of regular and special meetings for purposes of reporting to the State Office of Historic Preservation in the annual report, and to the Mayor and City Council prior to re-appointments. Board members are encouraged to notify staff of expected absences prior to meetings if possible. Any Board member who finds he or she is unable to attend meetings on a regular basis should re-consider his or her ability to serve on the Board.

F. Recusals and Abstentions

Any Historical Resources Board member may abstain from voting on an action of the Board after stating the reason for the abstention in discussion before the vote occurs. Recusals for reasons of conflicts of interest should be stated during the appropriate time on the agenda, but in no case after a motion on a Board action has been made and seconded. Board members are encouraged to contact the Deputy City Attorney one week prior to the Board meeting to ascertain whether or not a potential conflict of interest exists.

G. Quorum

1. The Historical Resources Board consists of 11 members. The San Diego Municipal Code requires a quorum of six Historical Resources Board members in order to conduct business.
2. Historical designation requires six votes in favor of the motion. In the event there are not six Board members present who are eligible to vote on a designation request, the item would be trailed to the next available meeting.
3. All actions of the Board, other than designation requests, shall be approved by vote of a simple majority of the members present.

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H. Presentation Time Limits

4. Presentations by members of the public to the Historical Resources Board shall be limited to three minutes for individual speakers, and eight minutes per side for organized presentations. These times may be adjusted by the Board Chair based on the length of the agenda, complexity of the item and/or the number of submitted speaker slips.

II. Business of the Board

A. Processing of Designation Requests Submitted by Members of the Public

Designation requests submitted by members of the public (that have not been referred by the Mayor, a City Department, or by action of the City Council or Historical Resources Board) will be accepted by Board staff on a first come, first served basis. Staff shall review the applications and reports for completeness as workload capacity allows and in the order received. Once deemed to be complete, staff shall schedule a request for the next available regularly scheduled Board meeting. There is no expectation or requirement that all designation requests submitted by members of the public will be processed and recorded in time for the Mills Act to take effect within a certain period of time. Designation requests will be scheduled with other business of the Board in accordance with agenda management procedures contained herein. The effective date of any Mills Act agreement, and subsequent County Tax Assessor's valuation, shall be in accordance with state law requirements.

B. Site Visits for Potential Historical Designations

Only Historical Resources Board members who have physically visited each site that is to be considered for designation may vote on the designation, unless a site specific waiver is approved by the Board. Approval of a waiver of the site visit shall be by vote of a majority of the Board members present at the meeting that one of the following factors exists:

1. A physical visit to the site would not significantly contribute to an understanding or appreciation of the historicity of the proposed site; or
2. The availability of access to the site is limited and the historical elements are sufficiently documented and demonstrable to the Board through the use of graphic or other visual aids presented at or prior to the meeting; or

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3. The particular knowledge and expertise of a Board member who did not visit the site would contribute to the Board's understanding of the request.

C. Formulating Designation Motions at Historical Resources Board Meetings

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It is expected that a Boardmember in favor of designation of a property as a historical resource will make a motion in support of designation and consistent with the Land Development Code regulations governing the designation process. If there is no second to a motion to designate a property as a historical resource or in the absence of a motion to designate a property as a historical resource, the Historical Resources Board Chair will call for a vote by the Board in favor of designation. This action will be taken to clarify the record relative to the Board's determination that a property does not meet the adopted designation criteria and the Board's lack of support for designation.

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D. Reconsiderations

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Reconsideration of Historical Resources Board votes may take place in accordance with Robert's Rules of Order and these procedures.

1. A matter may only be re-considered once.
2. Only votes of the HRB as decision-maker may be reconsidered. Votes of the HRB that are recommendations to a decision-maker cannot be reconsidered (e.g., recommendations on a project that requires a Site Development Permit for historical purposes cannot be reconsidered). Any referral from the City Council to re-hear a designation after an appeal has been filed and any re-initiation of designation proceedings, as found in the Municipal Code, are not subject to these reconsideration procedures.
3. A motion to reconsider may be docketed at the request of any member of the Board voting on the prevailing side of a vote. On or before 10 AM of the second Monday following any vote of the Board at a meeting, the Board member may direct the Secretary to prepare a docket item to consider and vote upon whether to reconsider the matter at a future public hearing. Staff shall make every effort to notify interested parties. The Board may only move to reconsider a previous vote if there are new facts, new or changed circumstances, or new laws that were not known and may have affected their decision. A docketed reconsideration in no way affects, relieves or suspends any interested party's responsibilities to file a timely appeal of a historical designation pursuant to Municipal Code Section 123.0203.

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4. Once docketed, a motion to reconsider must be introduced by a Board member who was on the prevailing side in the original vote. The motion can be seconded by any Board member who was present during the original vote. The motion is debatable, and affected parties or any member of the public for or against the reconsideration shall be given the opportunity to testify on that issue only.
5. All eligible Board members present may vote on the motion. However, six affirmative votes of those Board members who had participated in the original vote are required to pass the motion to reconsider.
6. If the motion to reconsider passes, the matter underlying the motion shall be re-docketed for a new hearing as soon as practical. All required public noticing shall be completed for this future hearing. The hearing shall be conducted in accordance with the applicable provisions of the San Diego Municipal Code and these procedures.

E. Historical Resources Board Recommendations to Decision-Makers

When the Historical Resources Board is taking action on a recommendation to a decision-maker, the Board shall make a recommendation on only those aspects of the matter that relate to the historical aspects of the project. The Board's recommendation action(s) shall relate to the cultural resources section, recommendations, findings and mitigation measures of the final environmental document, the Site Development Permit findings for historical purposes, and/or the project's compliance with the Secretary of the Interior's Standards for Treatment of Historic Properties. If the Board desires to recommend the inclusion of additional conditions, the motion should include a request for staff to incorporate permit conditions to capture the Board's recommendations when the project moves forward to the decision maker.

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F. Processing of Historical District Nominations

Before any historical district may be established, staff shall review the draft district documents and determine that they are complete. The complete draft district documents shall be scheduled for a Historical Resources Board Policy Subcommittee meeting to introduce the district materials. A second meeting (and additional meetings if necessary) shall be scheduled after the Subcommittee members have reviewed the draft district materials in order to obtain Subcommittee input. Once the Policy Subcommittee's review is complete and they concur that the draft district materials are ready for Board consideration, staff shall include the district

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nomination on the next available Historical Resources Board agenda. The processing of the district nomination shall comply with the Historical Resources Board Policy 4.1, Historical Districts, and all applicable provisions of the Land Development Code and Land Development Manual.

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III. Subcommittees

- A. The HRB may establish subcommittees to further the efficient conduct of business as necessary.
- B. Standing subcommittees which meet on a regular basis may include Policy, Archaeology, and Design Assistance. Standing subcommittees generally provide input to staff and applicants and do not make recommendations to the Board. Exceptions are for the Policy Subcommittee which may make recommendations to the Board on policy issues, and make final decisions regarding annual Historic Preservation Award recipients. Each subcommittee may establish procedures for meeting efficiency.
- C. Ad hoc subcommittees may also be established on an as-needed basis. Ad hoc subcommittees may be stand alone subcommittees of the Board, combined subcommittees including representation from other agencies, or subcommittees of other agencies with Board representation by one or more Board members. Ad hoc subcommittees typically provide the Board with recommendations related to the purpose for which the subcommittee was established.
- D. Standing subcommittees will meet at a pre-established time on a monthly or bi-monthly basis. Any subcommittee meeting may be canceled for lack of business or quorum. The standing subcommittee meetings are subject to the requirements of and shall comply with the Brown Act.
- E. Membership on the standing subcommittees shall strive to match expertise and interests to the extent possible, but shall also strive to allow maximum participation by Board members. The minimum number of Board members appointed to any standing subcommittee shall be three, and the maximum shall be five. Appointments to the standing subcommittees, including chair appointments, shall be made once a year, or as vacancies occur, by the Policy Subcommittee, and ratified by a majority vote of the Board at the next available Board meeting. The Chair of the Board, as appointed by the Mayor or Board, is automatically the Chair of the Policy Subcommittee. Establishment of stand alone ad hoc subcommittees and appointments to any ad hoc subcommittee shall be by a majority vote of the Board at a regular or special Board meeting.

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IV. Administrative Matters

A. Annual Report

An annual report shall be prepared on behalf of the Board by staff as required by the Certified Local Government agreement between the City of San Diego and the Office of Historic Preservation, and Section 111.0206(d)(7) of the San Diego Municipal Code. A final draft report shall be scheduled for Board consideration and comment no later than the January Board meeting of each year. Staff shall transmit the final annual report to the Office of Historic Preservation (OHP) by March 1 of each year, or in accordance with the deadline established by OHP. Copies of the final annual report shall also be transmitted to Board members, as well as to the Mayor and City Council.

B. Annual Historic Preservation Awards

Each year the Board may present Awards of Excellence recognizing outstanding achievement in the field of historic preservation. The awards shall be presented during the month of May, which is annual historic preservation month. Presentation of the awards may occur at a special meeting event of the Board or during the regular monthly meeting. Applications for nominations from the public shall be available from March 1 through April 30 of each year. The Policy Subcommittee shall consider the nominated recipients at the May Subcommittee meeting, and shall determine which recipients in which categories shall receive awards. Staff shall make every effort to contact the recipients and invite them to the award presentation. Award Certificates of Excellence shall be presented to each recipient at the award presentation meeting.

C. Appeals of Designations

For designations appealed to the City Council, staff shall notify the Board of the docketed hearing date as soon as practical. Board members are encouraged to attend the appeal hearing to speak on behalf of the Board's action.

D. Chair Represents Board

The Chair of the Board may represent the full Board at meetings where the Chair identifies his or herself as speaking on behalf of the Board.

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E. Distribution of Materials to Board Members and the Public

All materials relating to matters that are or will be the subject of Board decisions (materials) that are to be distributed to the Historical Resources Board and made available to the general public shall be provided to Board Staff three weeks prior to the scheduled meeting. Distribution of materials to the Board shall occur no later than 10 business days prior to the meeting. Board Staff shall make materials available to the general public at the same time as distributed to Board members, by placing one printed copy of the materials at the 4th floor reception counter of the City Administration Building, posting an electronic copy on the City of San Diego's website, and mailing a printed copy to interested groups and individuals for a reasonable fee upon written request. Supplemental distribution of meeting materials to Board members shall occur on a limited basis at the discretion of Board Staff and with the consent of the Board Chair and under no circumstances later than 72 hours prior to the meeting. Any supplemental materials shall be made available to the general public at the same time as distributed to Board members and in the same manner as described above. Materials that are provided at the time of the noticed HRB meeting will be stamped with a disclaimer stating that Board members may not be able to thoroughly review and consider these materials.

V. Amendments to Procedures

- A. Amendments to these procedures shall be by majority vote of the Board.
- B. The Policy Subcommittee shall review proposed amendments to these procedures and make a recommendation prior to consideration by the full Board.