

DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES



Planning Division

m e m o r a n d u m

TO: The Urbana Historic Preservation Commission

FROM: Rebecca Bird, Historic Preservation Planner

DATE: May 1, 2008

SUBJECT: Update Historic Preservation Commission's Official Bylaws

The Historic Preservation Commission is in the process of updating their bylaws, particularly regarding procedures for public hearings. At their February 6, 2008 meeting, the Commission held a study session with the Acting City Attorney. At their March 5, 2008 and April 2, 2008 meetings, the Commission discussed proposed changes to their bylaws. Attached is a further revised draft of the Commission's bylaws, per comments from the City Attorney. Changes to the existing bylaws (approved in September 2005) are shown as underlines and ~~strikeouts~~.

New Revisions

The new revisions are a result of comments and questions from the Historic Preservation Commission and the advice of the Acting City Attorney.

Article VI. Procedure for Hearings

1. Numbers 4, 5, and 6 have been revised. In the previous draft, the opportunity for relevant questioning (i.e., "cross-examination") was found in number 6, 9, and 10. The Acting City Attorney advised that directly after each person (nominator/petitioner, proponent, opponent, etc.) presents evidence, it may be appropriate to allow an interested party (usually the nominator/petitioner or an opponent) the opportunity for relevant questioning of the presenter. To make that clear in the procedures, language explaining that was added after numbers 4, 5, and 6 and numbers 9 and 10 were removed.
2. The Acting City Attorney thought that "other opponents" in number 5 and "others" in number 7 ought to be more specific. He recommended adding "who may have relevant information to present to the Commission" and "at the discretion of the Chairperson."
3. Number 8 has been revised to make clear the reason behind allowing City staff to add comments at this time.

4. For number 13 (number 15 in the previous draft), the Acting City Attorney recommended explaining the rationale behind requiring advance registration. Additionally, “who may be questioned” replaced “which parties will be subject to the questioning,” at the request of the Commission.
5. At their April meeting, the Commission questioned the language in number 16 (number 18 in the previous draft) regarding closing the public hearing after the Commission has taken action on the case and then reopening the public hearing at the same meeting prior to the Commission’s action on the request. The Acting City Attorney explained that he interpreted this to mean that if the Commission continues a case to a later meeting and closes the public hearing, but then the Commission realizes they lacked information and need to re-open the case. Another situation could be that a case was continued because the petitioner was not present for the public hearing, then arrived after the hearing had closed and the Commission wanted to reopen the case to allow the petitioner to present evidence or answer questions.

The Acting City Attorney advised the Commission to remember that the focus of a public hearing is allowing due process for all interested parties. He explained that questioning can go back and forth if the questions are appropriate (clarifying or challenging testimony) but that new evidence should not be introduced during questioning. He explained that the Chairperson (or the Commission) may do the following:

- Limit the number of opponents allowed to question the nominator/petitioner;
- Reserve the right to bring to an end cross-examination when an issue has been fully explored;
- Continue a case to a later meeting if there is a difficult legal situation; and
- Provide rules about who can cross-examine (possibilities would be those most directly affected by the petition/nomination or first-come-first-served).

Recommendation

City staff recommends the Historic Preservation Commission review the attached revised bylaws but wait until the June 4, 2008 meeting for formal adoption. In the interim, the Acting City Attorney will thoroughly vet the revised bylaws to ensure full consistency with State law. Per Article X of the existing bylaws, the existing bylaws may be amended by an affirmative vote of not less than five Commissioners. Although the bylaws will not yet be formally updated, the Acting City Attorney recommended using the updated Procedures for Hearings for public hearings scheduled for the May 7, 2008 meeting.

Attachments: Draft Revised of HPC Bylaws

HISTORIC PRESERVATION COMMISSION OFFICIAL BYLAWS

City of Urbana, Illinois

DRAFT

Date of Commission Approval:

Article I. Purpose

It is the purpose of these bylaws to establish a guide for the operation of the Historic Preservation Commission. These bylaws are supplemental to the provisions of Section XII-3 of the Urbana Zoning Ordinance, which state the Historic Preservation Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of the Urbana Zoning Ordinance.

Article II. Powers and Duties

The Urbana Historic Preservation Commission shall have the powers and duties outlined in Section XII-3F of the Urbana Zoning Ordinance.

Article III. Membership, Officers, and Their Duties

The membership, officers, their terms and responsibilities are governed by Section XII-3 of the Urbana Zoning Ordinance.

Article IV. Meetings

1. Regular meetings of the Historic Preservation Commission (herein after “Commission”) shall be determined by the Commission. There shall be a minimum of four (4) meetings per year.

If a regular meeting date is a holiday recognized by the City of Urbana, the Commission will not meet on that date. In such a case, the Chairperson may designate an alternative meeting date, provided that public notice is given in accordance with the requirements of the Open Meetings Act (5 ILCS 120/1 et. seq.).

2. Continued meetings shall be at the time and place fixed in the motion for adjournment should the business of the Commission not be completed.
3. All meetings shall be held in the City Council Chambers, City Building, 400 S. Vine Street, Urbana, Illinois, unless special conditions require that the meeting take place at an alternate location.
4. The Secretary shall give at least forty-eight (48) hours notice of all meetings to all members, the public, and such media as required by law.
5. Minutes of all meetings shall be taken in accordance with the requirements of the Open Meetings Act (5 ILCS 120/1 et. seq.).

Attendance

Attendance shall be required as outlined in Section XII-3 E of the Historic Preservation Ordinance.

Quorum

1. A quorum of the Preservation Commission shall consist of a majority of the members of the Preservation Commission then holding office but not less than three.
2. The Chair is a voting member of the Commission and shall vote on all matters except those on which a conflict of interest is declared. If the Chair declares a conflict of interest on any matter before the Commission, the Chair shall step down and the Vice-Chair shall take over as Chair of the Meeting. The Chair shall not resume his/her duties until the Commission finishes business on the matter on which the conflict of interest was declared.

Each Commissioner has a duty to vote “yes” or “no” on all matters put to a vote. Abstentions, if for reasons of conflict of interest shall not be counted as either a “yes” or a “no” vote and such member so abstaining shall not be counted in determining the total of which a majority is required. Each Commissioner shall have the right to abstain by reason of a stated conflict of interest based on his or her own assessment of the existence of such conflict of interest and the Commission shall have no right to overrule such Commissioner’s determination. The Commissioner need not reveal the substance of the reason that he or she feels they have a conflict of interest.

If a Commissioner abstains but does not announce that such an abstention is based on a conflict of interest, then such abstention shall be recorded as abstained and the Chair shall rule that such abstention “goes with the majority” of those votes actually cast as a “yes” or “no” vote.

Legal Counsel

The City Attorney of the City of Urbana or the City Attorney’s designee shall be the legal counsel or the Historic Preservation Commission.

Article V. Order of Business Agenda

The agenda for each meeting and the order of business shall be as follows:

1. Call to Order, Roll Call, and Declaration of Quorum
2. Changes to the Agenda
3. Approval of Previous Minutes
4. Written Communications
5. Audience Participation
6. Continued Public Hearings
7. Old Business
8. New Public Hearings
9. New Business
10. Monitoring of Historic Properties
11. Staff Report
12. Study Session

13. Announcements
14. Adjournment

The order of business and the agenda may be amended upon the motion and second of any Commissioner with consent of a majority of Commissioners present at the meeting.

Article VI. Procedure for Hearings

- ~~1. The format for each public hearing shall be as follows unless otherwise required by law:
 - ~~a. Officially open hearing.~~
 - ~~b. Presentation by staff, committee or commission.~~
 - ~~c. Presentation by the nominator.~~
 - ~~d. Presentation by the owner.~~
 - ~~e. Presentation by proponents.~~
 - ~~f. Presentation by opponents.~~
 - ~~g. Commission questions.~~
 - ~~h. Commission discussion.~~
 - ~~i. Commission vote.~~
 - ~~j. Close hearing.~~~~

The Historic Preservation Commission shall use the following procedure for Public Hearings unless otherwise required by law:

1. The Chairperson shall declare the public hearing open. He/she shall state the case number and nature of the request. The Chairperson shall then outline the procedure to be followed, stating when the nominator/petitioner may present evidence, when the objectors may present evidence, and the procedure for cross-examination. In addition, the Chairperson shall state the Historic Preservation Commission's authority regarding the case and whether or not the Commission has final authority on the matter.
2. Staff presents summary of the case.
3. The nominator/petitioner or his/her representative may make a statement outlining the nature of his/her request prior to introducing evidence.
4. The nominator/petitioner shall present evidence.
 - a) Opponents of the request shall be allowed a reasonable opportunity for relevant questioning (i.e., "cross-examination") of the nominator/petitioner, at the discretion of the Chairperson. If at any time the Chairperson determines the questions are becoming abusive or redundant, he/she may stop the questioning and direct the questioner to move on to the next question. If the petitioner is unable or unwilling to respond to the relevant questions, the chairperson shall direct the Recording Secretary to take note of such in the minutes of the Historic Preservation Commission.
5. Other Proponents of the request who may have relevant information to present to the Commission may be heard at the discretion of the Chairperson.
 - a) Opponents of the request shall be allowed a reasonable opportunity for relevant

questioning of any Proponent, at the discretion of the Chairperson. If at any time the Chairperson determines the questions are becoming abusive or redundant, he/she may stop the questioning and direct the questioner to move on to the next question. If the petitioner is unable or unwilling to respond to the relevant questions, the chairperson shall direct the Recording Secretary to take note of such in the minutes of the Historic Preservation Commission.

6. Opponents of the request shall present evidence. Opponents may include persons not in favor of the petition as proposed, as determined by the Chairperson.
 - a) The nominator/petitioner shall be allowed a reasonable opportunity for relevant questioning of any Proponent, at the discretion of the Chairperson. If at any time the Chairperson determines the questions are becoming abusive or redundant, he/she may stop the questioning and direct the questioner to move on to the next question. If the opponent is unable or unwilling to respond to the relevant questions, the chairperson shall direct the Recording Secretary to take note of such in the minutes of the Historic Preservation Commission.
7. Others who may have relevant information to present to the Commission may be heard at the discretion of the Chairperson.
8. Following the presentations by the nominator/petitioner, Proponents, or Opponents, additional comments may be allowed by City staff for clarification or in response to new evidence.
9. The nominator/petitioner may present a summary of his/her petition.
10. Questions from the Commission may be directed at any time to the applicant, staff or public to clarify evidence presented in the hearing.
11. The Commission shall not be bound by strict rules of evidence. The Commission may exclude irrelevant, immaterial, incompetent or repetitious testimony or other evidence.
12. A nominator/petitioner or opponent, or their agent or attorney may submit a list of persons favoring or opposing the application. Such a list will be accepted as an exhibit if it contains a brief statement of the position of the persons favoring or opposing the request together with the signatures and addresses of the persons subscribing to such statement. Said list shall be admissible as evidence if it is received by the Secretary prior to or during the public hearing on the request.
13. In order to facilitate an orderly and timely public hearing, the Chairperson may require advance registration of opponents wishing to ask questions of the nominator/petitioner or other interested parties, including identification of the opponents' area of interest in questioning and identification of who may be questioned. Advance registration may be by means of speaker cards to be submitted prior to or at the public hearing.
14. The Chairperson shall rule on all questions relating to the admissibility of evidence. The Chairperson's determination may, however, be overruled by a majority vote of the Commissioners present.
15. The nominator/petitioner and opponents should present all evidence they possess concerning the request at the initial phase of the public hearing. Written material from the

nominator/petitioner or opponents will be accepted by the Secretary for distribution to the Commission until the close of the public hearing.

16. The Chairperson shall close the public hearing only after the Historic Preservation Commission has taken action on the case. If the Commission has continued the case to a later date, the public hearing may be reopened at the same meeting at the discretion of the Chairperson or on a motion approved by the majority of the Commissioners present and voting.

17. The Commission may continue any case due to insufficient information provided by the petitioner in order for City Staff to make a recommendation or the Commission to make a decision. The Commission may also continue any case due to the absence of the petitioner at the meeting.

Article VII. Determinations

Motions and Procedures

Except as otherwise expressly provided in these Rules and Bylaws, motions and related miscellaneous procedures in Commission meetings shall be governed by the Robert's Rules of Order.

Article VIII. Records

Five Year Report

~~In accordance with the Urbana City Council a resolution, the Secretary of the Historic Preservation Commission will provide a report on the Ordinance's implementation to the Urbana City Council on July 20, 2003, five years from the date of the adoption of the Ordinance on July 20, 1998. The report shall include the following:~~

- ~~1. The number and location of applications for historic district or landmark designation;~~
- ~~2. The number and location of historic districts approved since the adoption of the Historic Preservation Ordinance;~~
- ~~3. The number and location of historic landmarks designated since the adoption of the Historic Preservation Ordinance;~~
- ~~4. The number of protests filed with the City Clerk on any designations.~~
- ~~5. Update the City Council on survey or educational work conducted by the Historic Preservation Commission; and~~
- ~~6. Any other information deemed necessary by the City Council or the Historic Preservation Commission.~~

1. A file of materials and determinations relating to each case shall be kept by the Secretary as part of the records of the Commission. Said records shall be kept at the office of the Commission.
2. The Secretary of his/her designee shall prepare minutes of every regular or special meeting. The Commission minutes shall be kept as part of the official records of the Commission and approved by an affirmative vote of the majority of the Commission members present.
3. All records of the Commission shall be public records subject to release in accordance with the process outlined by the Freedom of Information Act.

4. In accordance with Certified Local Government requirements, the Secretary of the Historic Preservation Commission will prepare an annual report. The report shall include the following:

1. Cases Reviewed: Certificates of Appropriateness and Certificates of Economic Hardship
2. Local Designations: Local Landmarks and Historic Districts
3. Historic Resource Surveys
4. National Register Nominations
5. Historic Property Monitoring
6. Historic Preservation Commission Activities
7. Commissioner Attendance Record
8. Meeting Minutes

Article IX. General Provisions

Commissioners shall not communicate with other commissioners outside of Historic Preservation Commission meetings for the purpose of influencing such commissioners to adopt a position on a matter then pending, or reasonably expected to come before the Commission.

Article X. Amendment of Rules

These by-laws maybe amended by an affirmative vote of not less than five (5) members of the Commission. Any such amendment becomes effective at the next regular meeting.