

**SPECIAL MEETING  
 HISTORIC PRESERVATION BOARD  
 CITY OF FORT LAUDERDALE  
 THURSDAY, NOVEMBER 17, 2011 - 5:00 P.M.  
 CITY HALL EIGHTH FLOOR CONFERENCE ROOM  
 100 NORTH ANDREWS AVENUE  
 FORT LAUDERDALE, FLORIDA**

<u>Board Members</u>	<u>Attendance</u>
Susan McClellan, Chair	P
Matthew DeFelice, Vice Chair	P
Brenda Flowers	P
Mary Jane Graff	P
Marie Harrison	P
Richard Heidelberg	A
David Kyner	P
Phillip Morgan	A
Gretchen Thompson	P

**City Staff**

Assistant City Attorney Carrie Sarver  
 Merrilyn Rathbun, Fort Lauderdale Historical Society, Consultant to HPB  
 Mike Ciesielski, Planner  
 Pat Garbe-Morillo, Planning and Zoning Department  
 Amanda Lebofski, Prototype Inc.  
 Anthony Fajardo, Historic Preservation Board Liaison

**Communication to the City Commission**

None

**Index**

<u>Case number</u>	<u>Applicant</u>	<u>Page</u>
1.	Proposed Amendments to the Historic Ordinance	1
	Good of the City	7
	Communication to the City Commission	7

**Call to Order**

Chair McClellan called the meeting of the Historic Preservation Board to order at 5:02 p.m.

**All members of the public wishing to address the Board on any item were sworn in.**

Index

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<b>1. <u>Proposed Amendments to the Historic Preservation Ordinance</u></b>	<b>6T10</b>
<b>Sections under review:</b>	47-24.11., Historic Designation of Landmarks, Landmark Site or Buildings and Certificate of Appropriateness; 47-32.3., Powers and Duties ; 47-32.4., Membership; 47-32.5., Qualifications ; 47-32.6., Meetings and Procedures;47-32.7., Quorum;
* NOTE:	This item is not quasi-judicial
District:	All Districts

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Dave Baber, workgroup member, remarked that the existing ordinance was old and required revision. The City Commission had asked that revisions be considered to: define a contributing resource; address unsafe structures and define criteria for Certificates of Appropriateness for demolition. The Mayor had asked Mr. Baber to get involved and he had suggested they must look at the entire ordinance.

Charles Jordan, workgroup member, stated the numbering system had been changed to incorporate the appeals and notification processes by reference. The work group had decided to isolate historic preservation into article 16 of the ULDR titles: Preservation of Historical, Archeological and Paleontological Resources. The Section was 47-40.1.A Historic Preservation Ordinance.

Mr. Jordan continued that there were nine subcategories: 1. Historic Preservation Policy and Regulations; 2. Historic Preservation Board Trust Fund and Incentive Programs; 3. Penalties, Settlement Authority for Civil Penalties; 4. Conservation Easements and Related Incentives; 5. Relief from Building Development Zoning Regulations; 6. Classification and Property Tax Assessment of Historic Property used for Commercial or Certain Non-profit Purposes; 7. Tax Exemptions for Historic Properties; 8. Transfer of Development Rights; 9. Designated Historic Districts.

Alysa Plummer, work group member, noted that this revision finally consolidated all historic preservation information in one area of the ordinance.

Under Section B. Declaration of Public Policy, Mr. Jordan said this was a restatement of

existing language in the ordinance. Additional language for the Declaration of Legislative Intent had been taken from the Broward County Historical Commission (BCHC) model ordinance drafted by Chris Eck. Mr. Jordan stated this brought the ordinance into compliance with the City's comprehensive plan.

Mr. Jordan said section C. Scope of Regulations, was also taken from the BCHC model, and indicated that a representative of the BCHC could initiate or appear as a party or witness in an official capacity. Under the current ordinance, the BCHC members could only testify as private individuals. Ms. Sarver noted that experts such as Mr. Baber were already granted standing. Mr. Jordan said this allowed a group with standing to appeal a decision. Ms. Sarver argued that courts determined standing; this language would not provide it.

Mr. Baber stated they had removed some definitions from the ordinance, such as Adaptive Reuse, which was included under alterations. They had added a definition for Additions, based roughly on the National Register program's language. He noted that throughout the document, the term Landmark had been replaced with Historic Resource, the term that was used throughout the country.

Mr. Baber explained that the definitions under Alteration had previously been in the ordinance but had not been consistent. Ms. Flowers felt some language in E. was redundant, and Mr. Jordan stated this dealt with the H-1 district commercial businesses with non-permanent outdoor fixtures. Mr. Baber said it had been included because it was in the existing ordinance. Mr. Kyner felt this was a problem and suggested the language should be more inclusive and less specific. Mr. Fajardo said they could specify that this applied only to commercial districts. Mr. Fajardo asked the work group to address this.

Mr. Kyner asked why the archeological materials section used an age of 75 years. Michele Williams, work group member, explained this was a national standard.

Ms. Flowers asked about the definition of Historic Preservation Officer, and Mr. Baber said the current position did not require the standards described in this language, which were national standards and part of the City's Certified Local Government (CLG) requirements.

Ms. Thompson asked about the Historic Survey, and Mr. Fajardo said there was a Sailboat Bend survey and other surveys had been started, but there was no survey listing all City historic resources. There was, however, a list of all designated historic sites within the City, which was available on the City's website. Chair McClellan asked what remained to be done with the surveys that had already been done. Mr. Fajardo explained there were two layers: properties that had been designated by resolution and other properties that were not designated, but may be included on a survey. The surveys that had been conducted but not vetted yet were available on the City's

website. Mr. Fajardo said the City Attorney must opine regarding whether the property's inclusion in the survey could be used as supporting documentation when a property was presented for designation. Ms. Sarver stated the only way to afford property protections was to designate it.

Chair McClellan asked what the vetting process for the surveys entailed. Ms. Sarver stated notice must be sent to all property owners informing them that their properties would be considered contributing and then the survey would be presented to the City Commission.

Mr. Kyner asked about the distinction between damage and demolition, and Mr. Fajardo said demolition might need a better definition to convey the intent. He agreed staff and the work group would address this.

Under definition 18. b Historic District, Mr. DeFelice suggested adding a provision to designate archeological sites. Mr. Baber agreed the work group would draft something. Mr. DeFelice explained that the City's archeological zones were areas where there was potential for discovery.

Chair McClellan referred to the definition of Scale and pointed out that it should refer to the minimum setback, not the maximum setback. The workgroup agreed.

Ms. Williams had worked on the archeological parts of the ordinance. She said rather than including the terms archeological and paleontological hundreds of items, they had included these resource classes under Historic Resources. Also, under the Board membership qualifications, they had added a registered professional archeologist or member of the Florida Archeological Council as someone they would like on the Board. They had used these organizations because they both had levels of ethics and training similar to that required by architects.

Ms. Williams said they had also added a description for Certificate to Dig. She agreed with Mr. DeFelice that this should include verbiage regarding a designated archeological or paleontological site. Mr. Fajardo felt this would be resolved by the Historic Resource definition, which required a property to be examined for archeological and paleontological value as part of the designation process.

Ms. Williams referred to the section on Historic Designation, and noted they had added archeological value. Mr. Baber said this should indicate property that contained an archeological resource or was in an archeological zone. Ms. Williams agreed to re-work this language. Mr. Fajardo asked if the intent was to state that if a property was within a zone, a Certificate to Dig was required, or that an archeological analysis should be performed at the time any resource was designated.

Ms. Sarver asked how a property owner would know he/she should get a Certificate to

Dig on a site that was not archeologically designated. Ms. Williams said it would be the same as if it were a potentially designate-able structure. Mr. Fajardo said this was covered by current language because of State statute. Ms. Williams pointed out that the State statute declared that on private property, an owner could do as he/she wished. Ms. Williams confirmed for Ms. Sarver that there would be a list of archeological sites.

Mr. Fajardo stated there was concern that a list of archeological locations would be public record that anyone could request to see. Mr. DeFelice said this could be an internal map, like State maps, which were exempt from Sunshine rules. Ms. Sarver suggested specifying the conditions for a Certificate to Dig instead of referring to the Secretary of the Interior's standards. Mr. DeFelice noted this should not be specified because the Secretary of the Interior's standards were periodically updated. Ms. Williams explained that the criteria usually used concerned potential to contribute significant information and that construction would therefore destroy a piece of history that could not be replaced. Mr. Fajardo remarked that any request for a Certificate to Dig on a known archeological or paleontological site would be sent to the County for review since there was no City staff to review it.

Mr. Baber suggested that properties within an archeological zone should be required to perform a survey as part of the Certificate to Dig. If anything was discovered, the applicant would need to come back to the Board to amend the Certificate to Dig to address the findings. For known archeological sites, there must be a process to determine how to avoid, minimize or mitigate the archeological issue. Ms. Williams stated this was addressed in the Secretary of the Interior's standards, and suggested they look at this and bring it back to the Board.

Mr. Kyner asked how a real estate buyer would know that his/her property was historically or archeologically significant. Mr. Fajardo said they must work with the real estate community. Ms. Sarver noted that if a property was not designated, a Certificate to Dig was not required. In historic districts, the onus was on the buyer to perform due diligence. Mr. Kyner remarked on how imprecise the archeological zone maps were. Mr. DeFelice described how sites were precisely bounded during a survey when designated. Ms. Sarver asked how the County archeological documents, on which the zones were based, had been certified. Ms. Williams said they were based on archeological surveys. Staff and the work group agreed to look at this language and address the Board's concerns.

Mr. Kyner thought requiring a property owner to apply for a Certificate to Dig to plant a tree was unrealistic. He felt they should limit the requirement to larger excavations. Ms. Sarver asked if Board members wanted to require this. Ms. Williams said once a property owner applied for the Certificate, the Board could decide that the Certificate was not needed. Ms. Williams said she would look at other language in the State of Florida. Mr. DeFelice said they might consider minimum requirements of inches or feet for the application.

Mr. DeFelice noted that the issue with open awareness of archeological sites was more about the hundreds of acres of public land people could access on their own. Ms. Sarver said if the Board was concerned about having to determine when a property owner could dig, they should submit the criteria to define it.

Regarding the Historic Preservation Board makeup, Ms. Plummer agreed to forward the CLG requirements regarding boards to Ms. Sarver. She said this section mirrored those requirements.

Ms. Flowers asked about term limits. Chair McClellan said after two three-year terms, a Board member must wait one year before serving on the Board again. Ms. Morillo noted that a Board member could remain on the Board until a replacement was appointed by the Commission.

The Board discussed whether or not a Board member should be required to be a registered voter. Mr. Fajardo believed this was a requirement for all City Boards.

**Motion** made by Ms. Thompson, seconded by Ms. Graff, to require Board members to be registered to vote. In a show of hands vote, motion passed unanimously.

The work group had suggested reducing the number of Board members to nine, and noted that Fort Lauderdale had the largest Historic Preservation Board in the State.

Mr. Kyner asked about the requirement that a member have a "demonstrated" commitment to historic preservation and asked how this would be demonstrated. Mr. Baber said this language was from the CLG. Mr. Fajardo said the intent was to ensure that Board members cared about preservation, whether it was demonstrated or not. Mr. Jordan pointed out that the appointment process was public and if someone suspected a potential Board member was not concerned with preservation, he/she could attend the City Commission meeting when the appointment was being made to challenge the appointment.

Ms. Flowers preferred the old language that referred to specific requirements for six members and left the remaining appointments open to members of "other segments of the community." This contrasted with the new language that stated the professional requirements would be met "to the extent possible." Mr. Fajardo noted that in the old language, it was explicit and in the new language it was implied. Ms. Sarver said it was sometimes very difficult for Commissioners to find appropriate residents to appoint.

Under Board Member Qualifications, Mr. Baber suggested adding an understanding of all the criteria for a Certificate in the ordinance, not just the Secretary of the Interior's standards and the Design Guidelines. The Board agreed to this change.

Regarding Powers and Duties, Ms. Plummer wanted the Board to have the ability to seek outside counsel if an appropriate professional was not represented on the Board.

Chair McClellan said a non-profit could be consulted. Ms. Morillo pointed out this was addressed later on.

Mr. Fajardo explained the reason for the change in the quorum requirement: because it could be difficult to hold a quorum if Commissioners did not fully appoint the Board. Ms. Sarver said the City Attorney would not advise this for any quasi-judicial board because it could result in a small number of members making decisions. Mr. Baber reiterated that this was another reason to reduce the total number of Board members.

Mr. Fajardo said the next special meeting would take place on December 15.

2. **For the Good of the City** Index  
None.

3. **Communication to the City Commission** Index  
None.

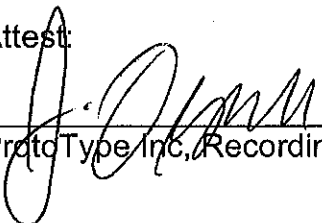
There being no further business to come before the Board, the meeting was adjourned at 8:10 p.m.

Chairman,



Susan McClellan, Chair

Attest:

  
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ProtoType Inc. Recording Secretary

The City of Fort Lauderdale maintains a Website for the Historic Preservation Board Meeting Agendas and Results: <http://ci.ftlaud.fl.us/documents/hpb/hpbagenda.htm>

Minutes prepared by: J. Opperlee, ProtoType Inc.