



MEMORANDUM

PLANNING DIVISION
DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

To: Historic Landmark Commission

From: Nick Norris, Planning Director
Michaela Oktay, Deputy Planning Director

Date: June 1, 2022

Re: Update to Historic Landmark Commission Policies and Procedures

During the 2022 Utah Legislature, a bill was passed that required public bodies holding electronic meetings to establish policies and procedures for determining a quorum and voting when members are attending electronically. The bill became effective on May 4, 2022. At the May 5, 2022 commission meeting the commission directed further changes to the document.

In order to comply with the new regulations and to keep the option of holding electronic meetings, the Planning Division is proposing that the Commission consider the following changes to the policies and procedures:

- **Quorum:** changes identify what constitutes a quorum for electronic meeting. This includes adding a statement that if a commission has to recuse themselves, that the recused commissioner still counts toward the quorum
- **Voting:** The Planning Division and the City Attorney's Office are recommending that the prohibition on the chair voting be removed. The person conducting the meeting however will vote last because the chair has influence on the discussion on a particular item. The changes also address how voting should be conducted for both in person and electronic meetings.
- **Chair and Vice Chair term limits:** that the Chair and the Vice Chair be able to hold two terms in total, the elections still occur yearly.

The Planning Division is also proposing to modify the due date of the annual report from February to March. Other minor changes, such as numbering of paragraphs, fixing grammatical errors, and general formatting changes are also likely.

A draft version of the entire policies and procedures with the proposed changes are attached for your reference. Adopting the changes requires a vote of the commission.

ATTACHMENT: Policies and Procedures DRAFT in strike and underline

SALT LAKE CITY HISTORIC LANDMARK COMMISSION

Policies and Procedures

A. *Organization*

1. **Election of Chair and Vice Chair:** The Commission, at its regular meeting in August, shall elect a Chair and Vice Chair who shall serve for a term of one year each. Members shall be notified of the upcoming election of officers at the meeting one month prior to the election. **The chair or vice chair may be elected to serve a maximum of two consecutive terms in the same office.**
2. A special election may be called by a majority vote of the quorum of the members present in the event the Chair or Vice Chair is unable to fulfill their elected term.
3. **Orientation:** All new Historic Landmark Commissioners shall have an orientation meeting with Planning Staff and observe one Historic Landmark Commission meeting for orientation purposes.
4. **Required Training:** The Planning Director shall schedule additional commission training as outlined by State Law or as necessary.

5. **Duties of the Chair**

The Chair to Preside at Commission Meetings: The Chair is the presiding member at all meetings of the Commission and shall provide general direction for the meetings. In addition to being the presiding member, the Chair shall have the following duties:

- a. To call the meeting to order on the day and the hour scheduled and proceed with the order of business.
- b. To announce the business before the Commission in the order in which it is to be acted upon.
- c. To receive and submit in the proper manner, all motions and propositions presented by the members of the Commission.
- d. To put to vote all questions which are properly moved, or necessarily arise in the course of proceedings, and to announce the results of the motions.
- e. To inform the Commission on any point of order or practice and in the course of discharge of this duty, the Chair shall have the right to call upon legal counsel for advice.
- f. To serve as signatory of the Commission, affixing his/her signature on documents as may be required by the law or otherwise deemed necessary by the Commission.
- g. To maintain order at the meetings of the Commission.
- h. To move the agenda along and hold down redundancy by limiting the time allowed for comments if necessary, set guidelines for public input, and reference handouts and procedure during meetings.
- i. To recognize speakers and Commissioner prior to receiving comments and presentation.

~~j. The Chair shall not vote unless the vote is needed to break a tie or to ensure a quorum of the Commission is voting.~~

6. **Duties of the Vice Chair:** The vice Chair, during the absence of the Chair, shall have and perform all of the duties and functions of the Chair. Should the Chair resign from the Commission, the Vice Chair shall serve as Chair until elections are held at the next available meeting.
7. **Temporary Chair:** In the event of the absence, disability or conflict of interest of both the Chair and the Vice Chair, the Planning Director shall appoint another Historic Landmark Commission member to serve as Chair until the Chair or Vice Chair returns. In such event, the temporary Chair shall have all the powers and perform the functions and duties assigned to the Chair of the Commission.
8. **Planner:** A Planning Division staff person shall act as the liaison between the Planning Division and the Commission. This staff person's duties shall include, but not be limited to, setting agendas, preparing staff reports, and handling administrative duties for the Commission. This person shall be the Planning Director or his or her designee(s), and shall serve as an ex officio member of the Commission without vote.
9. **Secretary:** A Planning Division secretary shall serve as secretary of the Historic Landmark Commission. The secretary's duties are as follows:
 - a. To publish public notices of regular and special Historic Landmark Commission meetings, consisting of a quorum, in accordance with the noticing regulations of the Zoning Ordinance.
 - b. To attend every meeting of the Commission, to take and record the roll, to read any communications, resolutions or other papers which may be ordered to be read by the Chair of the meeting and to receive and bring to the attention of the Commission all messages and other communication from other sources.
 - c. To keep and maintain a permanent record file of all documents and papers pertaining to the Historic Landmark Commission meetings in accordance with state law.
 - d. To ensure Commissioners receive materials pertinent to regularly scheduled Commission meetings at least five (5) days prior to the Historic Landmark Commission meetings.
 - e. Other administrative support duties necessary for the purpose and function of the Commission.

B. Rights and Duties of Members

10. **Meeting Attendance:** Every member of the Commission shall attend the sessions of the Commission unless unable to attend because of extenuating circumstances. Any member desiring to be excused shall notify the secretary. The secretary shall inform the Chair and the Planning Director, or his/her appointed designee, of the absence.

- a. If a Commission member misses three consecutive meetings or six meetings in a calendar year, the Chair shall confer with the member regarding the ability, interest and commitment of the member to continue membership on the Commission.
 - b. If the Commission member continues to miss meetings, the Chair shall bring the matter to the full Commission. The Commission will decide upon an appropriate recommendation to the Mayor as to whether removal of the member from the Commission is appropriate as per section 21A.06. of the Salt Lake City Code.
- 11. Leave of Absence:** The Commission may grant its members leaves-of absence not to exceed six months.
- 12. Conflict of Interest:** No member of the Historic Landmark Commission shall participate in or be present at the hearing or disposition of any matter in which that member has any conflict of interest prohibited by Chapter 2.44 of the Salt Lake City Code.
- 1. The Historic Landmark, Commission may, by majority vote ~~of the quorum~~ of the members present, allow a member, otherwise required to leave due to a conflict, to be present if required by special or unusual circumstances. It is considered a special or unusual circumstance if the member's presence is necessary to ensure the quorum requirement is maintained.

The following gives additional clarification relating to addressing conflicts of interest. A Historic Landmark Commission member may declare a conflict of interest regarding specific agenda items. Members of the Historic Landmark Commission who feel they or any other member of the Commission may have an actual, apparent, or reasonably foreseeable conflict of interest on any matter that is on the Commission agenda, shall explain the apparent conflict to the Commission. The Commission may then vote to decide whether the requested disqualification is justified. After declaring a conflict of interest, a Historic Landmark Commission member shall not participate in, or be present at the public hearing unless they need to be present if required by special or unusual circumstances, nor participate in the discussion or vote of the matter, nor attempt to influence other Commissioners before, during, or after the meeting and during any appeal period. The following are additional guidelines for conduct:

- a. There may be a conflict of interest if there are personal, familial relationships, or financial ties between a Commission member and proponent/opponent of any item of business.

- b. A Historic Landmark Commission member may appear before the Commission through their employment as an advocate or agent for an applicant or as a property owner only after the Commissioner's disqualification on the subject matter.
- c. A Commission member must not sell or offer to sell services or solicit prospective clients or employment by stating an ability to influence the decisions of any City board.
- d. A Commission member must not use the power of office to seek or obtain a special advantage that is not in the public interest nor any special advantage that is not a matter of public knowledge.
- e. A Commission member shall not have any ex parte discussions regarding any business before the Commission. For the purpose of the Historic Landmark Commission policy, ex parte discussions include any communication with interested parties of any issue coming before the Historic Landmark Commission, prior to the Commission's final decision.
- f. Conflict of interest rules, procedures and guidelines shall also apply to the Architectural Committee, work sessions and other ad hoc committees established by the Commission.

C. Meetings

- 13. **Place:** All meetings of the Commission shall be held in a room of the City and County Building, 451 South State Street, Salt Lake City, Utah, or at such other place or by means of electronic meeting held in accordance with the law as the Chair, Commission or Planning Director may designate. A meeting having been convened at the place designated, may be adjourned by the Commission to any other place within Salt Lake City for the sole purpose of investigating some particular matter of business which may be more conveniently investigated at such other place, or may be adjourned to any other room more convenient for conducting the business, or conducted electronically authorized by the law. In any of these circumstances, proper notice of meeting location, including any publicly accessible electronic link in the event of an electronic meeting shall be is posted for the general public.
- 14. **Regular Meetings** –Regular meetings of the Commission shall normally be held on the first Thursday of each month or such other appropriate day as determined by the Commission. The regular meetings shall generally begin at 5:30 P.M. At the discretion of the Chair, field trips or work sessions may be held on another day as determined by the Commission, at 4:00 p.m. or at another appropriate time. The Historic Landmark Commission shall normally meet at least once a month.

15. **Special Meetings:** The secretary shall give notice of the time and purpose of every special meeting of the Commission at least twenty-four (24) hours prior to such meeting. Such notice shall be delivered to each member of the Commission via email or by telephone.
16. **Meetings – Matters Considered:** Other business items pertaining to the affairs of the Salt Lake City Historic Landmark Commission and falling within the authority and jurisdiction of the Commission may be considered and acted upon at any regular meeting of the Commission.
17. **Quorum:** A quorum of the Historic Landmark Commission shall be as defined in the Salt Lake City Code Chapter 2.07.140. For purposes of determining whether a quorum is present, all members present shall be counted, including members who may abstain from a particular vote. A particular member is considered present when they are physically present at the place identified in paragraph 14 or are otherwise connected to the meeting via electronic means and make their presence known.

D. Procedure – Order of Business

18. **Order of business:** The order of business shall normally generally be as follows:
 - a. Field trip, if applicable;
 - b. Dinner, if applicable;
 - c. Work Session, if applicable;
 - d. Report of Chair and Vice Chair;
 - e. Report of Director or designee;
 - f. Approval of minutes from prior meeting(s);
 - g. General Comments to the Commission;
 - h. Roll taken by the secretary;
 - i. Consideration of agenda items;; and,
 - j. Other business at the discretion of the Chair.
19. **Field trips:** On those occasions when site inspections are deemed advisable, field trips should typically be held prior to the Historic Landmark Commission meetings, and the time of the field trip to be posted on the agenda. Only Historic Landmark Commission members and pertinent City Staff shall be allowed to attend the field trip in the City-owned van. The public shall be allowed at the sites of the field trip but are encouraged to present their case at the Historic Landmark Commission meeting, not during the field trip. Public comment is discouraged during the field trip and any public comment made shall not include substantive information. Field trips shall be for the purpose of gathering information, not for the discussion of decisions.

20. **Agenda for Meetings:** The Secretary, with the assistance of the Planning Director or designee, shall prepare a written agenda for each meeting as far in advance as possible and shall submit such agenda to each member of the Commission at least five (5) days prior to each meeting.
21. **Staff Report:** All applications and projects presented to the Historic Landmark Commission for its consideration should be accompanied by a staff report detailing the overview, background, analysis, and Staff recommendations which should typically include findings of fact and where applicable, conditions for approval. Staff reports should address the portion of the Salt Lake City Zoning Ordinance or other applicable development codes relevant to the petition's request and how the request fits within the criteria of the ordinances and applicable design guidelines. Staff reports should be as concise as possible while allowing for adequate coverage of the subject matter and shall be made available to the petitioner and anyone else requesting a copy.
22. **Delivery of Staff Reports.** Copies of staff reports and other pertinent materials shall be made available to the Historic Landmark Commission members at least five (5) days prior to regularly scheduled Historic Landmark Commission meetings.
23. **Submission of Written Material:** Any written material submitted for the Historic Landmark Commission's consideration should be submitted to the office of the Planning Division by Wednesday, at noon, eight days prior to the meeting. This allows time for incorporation into the Historic Landmark Commission packet. Materials submitted after the Wednesday deadline will be emailed or handed out to Commission members as soon as is reasonably practicable. Materials submitted after the Wednesday deadline are not guaranteed to be given or reviewed by the Commission prior to the meeting.
24. **Notification of Public Hearings:** Notices of all items scheduled for Historic Landmark Commission meetings shall be provided consistent with Salt Lake City Code Chapter 21A.10. *General Application and Public Hearing Procedures*. Anyone wishing to receive notice of Historic Landmark Commission meeting agendas, copies of minutes and/or staff reports may be placed on the regular e-mailing list or US Mail list by contacting the Planning Division Secretary.
25. **Minutes:** The secretary shall provide the minutes to the Commission within 5 days prior to the next meeting. The Commission shall approve the minutes at a regularly-scheduled public meeting with any appropriate modifications, unless the Commission by majority vote of the quorum of the members present determines that the minutes are substantially inaccurate to the point where minor revisions will not adequately correct the minutes to accurately reflect the meeting for which they were made.

E. Procedure – Order and Decorum

- 26. Order of Consideration of Items:** The following procedure will normally be observed, however, it may be rearranged by the Chair for individual items if necessary for the expeditious conduct of business:
- a. Item introduction by Chair;
 - b. Staff presentation and recommendation;
 - c. Applicant presentation of proposal;
 - d. Opening of the public hearing portion of the meeting.
 - i. Recognized Community Organization presentation/comment. There shall be a five (5) minute maximum presentation, unless the Chair authorizes additional time.
 - ii. General Public's comment; There shall be a two (2) minute maximum per individual's presentation / comments, unless the Chair authorizes additional time.
 - iii. Applicant's response to comments offered during the public hearing. There shall be a five (5) minute maximum response time from the applicant unless the Chair authorizes additional time.
 - e. **Opening and Closing Public Hearings;** The Chair shall open and close the public portion of each hearing prior to Historic Landmark Commission's discussion and vote on the matter.
 - f. **Historic Landmark Commission discussion and vote.** The discussion is closed to staff, the petitioner, and public unless the Historic Landmark Commission requests additional information. The Commission Chair may outline possible actions- approval, approval with conditions, denial or continuation. If additional information is required, the public hearing portion of the meeting may be reopened by the Chair.
- 27. Recess:** The chair may call for a recess for a specific purpose while also stipulating a specific time to reconvene the meeting. The time to reconvene must be during the same day as the meeting in which the motion to recess was made.
- 28. Public Comment at Work sessions and Retreats.** During the course of conducting Historic Landmark Commission business other than public hearings, the Chair, after consulting with the Commission, may elect to receive comment or take testimony from the audience. However, the Historic Landmark Commission is not obligated to take any comment from the audience and any comment is at the will of the Chair.

29. **Adjournment:** The Chair shall adjourn the meeting at the end of each Historic Landmark Commission meeting.

F. Procedure – Motions

30. **Making Motions:** Any Commission member, with the exception of the Chair, may make or second a motion. Motions should state findings for approval or denial within the motion:
- a. Motions should state findings at the beginning of the motion followed by the recommendation to the appropriate body, if any, and should be concluded with the conditions of approval. The motion may refer to the staff report for the detail of the findings of fact and conditions for approval if the author of the motion finds them acceptable.
 - b. The staff will generally provide a motion sheet sufficient in detail to assist the Commission in stating findings.
 - c. Motions may be repeated for clarification following discussion and prior to the vote at the request of any Commissioner.
 - d. Commissioners may request advice from the City Attorney or members of the Planning Division Management Team in the preparation, discussion and deliberation of motions during the meeting.
 - e. Conditions to motions for approval: Conditions placed on the approval of an application must be germane to mitigating negative impacts relating to the proposal or are necessary to ensure the project meets the regulatory criteria.
 - f. Second Required: Each motion of the Commission must be seconded.
 - g. Withdrawing a Motion: After a motion is stated, the motion shall be in the possession of the Commission but may be withdrawn by the author of the motion prior to the vote. Withdrawal of a second is not necessary.
 - h. Motion to Table: A motion to table an agenda item for further study should be accompanied by specific reasons for continuing the matter and whenever possible, a specific date to rehear the matter should be scheduled.
 - i. Amending Motions: When a motion is pending before the Commission, any member may suggest an amendment without a second, at any time prior to the Chair putting the motion to a vote. The amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the amendment.

- j. Amending Amendments to Motions: An amendment to a motion may be amended, no second required, at any time prior to the Chair putting the motion to a vote. The amendment to the amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the additional amendment.
- k. Substitute Motions: A substitute motion may be made prior to a vote on the original motion. A second is required on the substitute motion before a vote on the substitute motion can occur.

G. Procedure: Debate/ Questions

- 31. No member of the Commission shall question another member in debate without obtaining the Commissioner's consent and to obtain such consent, shall first address the Chair.
- 32. No member of the Commission shall ask a question of the public without first obtaining permission of the Chair.
- 33. No member of the Commission shall debate with the applicant or a member of the public during the public meeting. Opinions of the Commission members should be voiced after the public hearing and should focus on the project and not on individual (s).

H. Procedure – Voting

- 34. Voting: All business of the commission that requires a vote shall be done via roll call vote. Commissioners who are present via electronic means shall vote after their name is called by the Chair, Vice Chair, or other person conducting the meeting in the absence of the Chair and Vice Chair. In conducting a roll call vote, the conducting member shall vote last.
- 35. **A Majority Vote required.** A motion can only be approved by a majority vote of the members present at the meeting.
- 36. **Changing a Vote:** No member may change his/her vote after the decision is announced by the Chair or conducting member.
- 38. **Abstention:** Any member abstaining from a vote may remain seated at the table and participate in the discussion. Reasons for abstention may be stated at the time of the abstention and such reason shall not be considered a conflict of interest.

39. **Explaining the Vote:** After the vote is taken, any member of the Commission desiring to explain his/her vote shall be allowed an opportunity to do so.
40. **Not to Vote Unless Present:** No member of the Commission is permitted to vote on any motion unless the member is present when the vote is taken. Commissioners who are connected to the meeting via electronic means shall be considered present for the purpose of voting when they vote in a manner that indicates their presence.

I. Procedure – Suspension of Rules

41. **Suspension or Alteration of Rules:** No standing Policies and Procedures of the Historic Landmark Commission shall be altered, amended, suspended, or rescinded without the vote of a majority of a quorum present at the meeting.

J Summary of Actions

42. After the meeting, the Planning Division secretary will create a “Summary of Actions” which includes the list of items acted upon and what action was taken (approved, approved with conditions, tabled or denied). The Summary of Actions shall be posted on the Planning Division website no later than the day following the public meeting.

K Letter from Planner

43. After the Historic Landmark Commission hearing, the project planner shall prepare a detailed record of decision letter for the applicant and property owner (if different) which outlines the findings and decision of the Commission. The letter shall be mailed or emailed within ten days from the action of the Commission.

L. Modifications of Approved Applications

44. An approved application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Planning Director. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches, where necessary. If the Planning Director finds that the modification of an approved application constitutes a substantial change, the applicant shall submit the information as a new application to the full Commission for approval.

M. Committees

45. The Historic Landmark Commission shall establish standing or ad hoc committees, consisting of members from the full Commission, to address specific issues or to perform specific tasks. These committees shall meet on an as-needed basis. Their recommendations shall be forwarded to the Historic Landmark Commission prior to the subsequent regularly-scheduled meeting.

- 46. Architectural Committee:** It shall be the policy of the Historic Landmark Commission that an Architectural Committee of the Commission shall be available to meet with applicants to give them suggestions on various design options of what might meet standards regarding their project upon the direction of the Commission.
- a. During a committee meeting, the Architectural Committee, collectively and individually, shall not indicate the approval or disapproval of the application. No advice or opinion given, or reported as having been given, by any member of the Architectural Committee at such an informal meeting shall be in any way official or binding. The Commission shall direct the staff to issue final approval of projects reviewed by the Architectural Committee, or require the applicant to return to the Commission for final review after the applicant has worked with the Architectural Committee.
 - b. For applications regarding new construction, the applicant should first meet with the Historic Landmark Commission in order to obtain a general direction from all of the members of the Commission. Once the general direction is given and the issues have been raised, the Historic Landmark Commission may direct the applicant to meet with the Architectural Committee to work out the technical details on the project
 - c. The Planning staff attending the Architectural Committee shall take notes of the discussion. The Staff members should help the Committee members identify standards that need to be followed relating to the project and ensure that suggestions of the Committee members are consistent with those standards. The minutes of the Architectural Committee shall be presented in written form to the Historic Landmark Commission prior to their subsequent public hearing.

N. Recordation of Certificate of Appropriateness

- 47. Records shall be kept of all administrative approvals.** A written report of these decisions shall be included in the Historic Landmark Commission Annual Report and with each Commission meeting's packet of information.

O. Annual Report

- 48.** The Planning Staff shall prepare an Annual Report to be presented to the Historic Landmark Commission no later than at its regularly scheduled meeting in ~~February~~ March. The report shall include information about the number, type and disposition of standard cases, administrative Certificates of Appropriateness, and information regarding other City or Staff activities involving historic preservation. The Annual Report will be compiled with additional information detailing the activities of the Planning Division and forwarded to the City Council and Mayor.

P. Approval and Amendment of Policies and Procedures

- 49. These Policies and Procedures may be amended by a majority vote of the members present.

Q. Recording of Policies and Procedures

- 50. These rules and all subsequent amendments shall be recorded by the Planning Division Secretary and copies shall be furnished to each member of the Commission and posted to the Planning Division website.

Adopted by the Historic Landmark Commission on May 5, 2022.

Recorded on _____ by _____.