



Economic & International Development Department

**HISTORIC LANDMARK COMMISSION MEETING MINUTES
1st FLOOR, CITY COUNCIL CHAMBERS
CITY HALL BUILDING, 300 N. CAMPBELL
SEPTEMBER 22, 2014
4:00 P.M.**

Mayor
Oscar Leeser

City Council

District 1
Ann Morgan Lilly

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Claudia Ordaz

District 7
Lily Limón

District 8
Cortney C. Niland

City Manager
Tommy Gonzalez

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 1st Floor, City Hall Building, September 22, 2014, 4:00 p.m.

The following commissioners were present:

- Chairman David Berchelmann
- Vice-Chairman Edgar Lopez
- Commissioner Beatriz Lucero
- Commissioner Randy Brock
- Commissioner Cesar Gomez
- Commissioner William Helm II
- Commissioner John Moses

The following commissioners were not present:

- Commissioner Ricardo Fernandez

The following City staff members were present:

- Ms. Providencia Velázquez, Historic Preservation Officer, Economic Development
- Ms. Kristen Hamilton, Assistant City Attorney, City Attorney’s Office

CALL TO ORDER

Chairman Berchelmann called the meeting to order at 4:05 p.m., quorum present.

MAGOFFIN HISTORIC DISTRICT WALKING TOUR PAMPHLETS

Ms. Velázquez distributed pamphlets entitled “*A Self-Guided Magoffin Historic District Walking Tour*” to commissioners and staff. Pamphlets provided by Ms. Leslie Bergloff, Site Manager, Magoffin Home State Historic Site, and the Texas Historical Commission. The walking tour is full of historical information and takes approximately two hours to complete.



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CHANGES TO THE AGENDA

Ms. Velázquez suggested commissioners move agenda item 1. to the end of the agenda to allow public comment.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Moses AND UNANIMOUSLY CARRIED TO MOVE AGENDA ITEM 1. TO THE END OF THE AGENDA.

I. CALL TO THE PUBLIC – PUBLIC COMMENT

None.

II. REGULAR AGENDA – DISCUSSION AND ACTION

1. Discussion and action amending Chapter 20.20 (Historic Landmark Preservation) of the El Paso City Code.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Moses AND UNANIMOUSLY CARRIED TO MOVE AGENDA ITEM 1. TO THE END OF THE AGENDA.

REVISED MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Helm AND UNANIMOUSLY CARRIED TO POSTPONE AGENDA ITEMS 1., 4., 5., AND 6. TO THE NEXT SCHEDULED MEETING ON OCTOBER 6TH.

2. Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. September 22, 2014 deadline for HLC members to request for agenda items to be scheduled for the October 6, 2014 meeting. October 6, 2014 deadline for HLC members to request for agenda items to be scheduled for the October 20, 2014 meeting.

Chairman Berchelmann asked if commissioners had any addresses for staff to review or investigate. *There were none.*

Ms. Velázquez stated she would update commissioners regarding the property located at 1033 Upson Drive later in the meeting.

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HLC Staff Report

- Update on Administrative Review Cases since last HLC meeting for the properties listed on the attachment posted with this agenda. (See Attachment “A”)

There were no comments from commissioners.

MOTION:

Motion made by Commissioner Moses, seconded by Commissioner Gomez AND UNANIMOUSLY CARRIED TO APPROVE THE HLC STAFF REPORT.

Other Business – Discussion and Action

- Results of research on the City of San Antonio Historic Guidelines and codified violations specific to penalties and the enforcement thereof and the State of Texas’ Texas Historical Commission regarding same. (postponed from 09.08.2014)

Ms. Velázquez stated the City of San Antonio, Office of Historic Preservation is very serious about preservation and penalizing violators. The differences between the City of San Antonio OHP and the City of El Paso HPO are as follows:

| City of San Antonio Office of Historic Preservation (OHP) | City of El Paso Historic Preservation Office (HPO) |
|--|---|
| <i>Ordinance – 71 pages</i> | <i>Ordinance – much smaller</i> |
| <i>Code – 150 pages</i> | <i>Code – much smaller</i> |
| <i>Full Time Staff - 11</i> | <i>Staff - 1</i> |
| <i>HPO Code Enforcement Staff – 1</i> | <i>N/A</i> |
| <i>Historic Districts – 30</i> | <i>Historic Districts - __</i> |
| <i>Individual Designated Historic Properties – F 1,200</i> | <i>Individual Designated Historic Properties – ____</i> |
| <i>Historic Preservation Television (HPT)</i> | <i>N/A</i> |

From the City of San Antonio, Office of Historic Preservation Code, Ms. Velázquez read into the record a portion of *Sec. 35-491 (c) (3) A., B., C. - Civil Enforcement., Penalties., Civil Penalties Regarding Article VI, Historic Preservation.,* as follows:

- Any person who constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any building, object, site or structure in violation of any section or other part of article VII *shall be required to restore the building, objet, site, or structure to its appearance or setting prior to the violation. In addition, the applicant shall not be entitled to have issued a permit or certificate of appropriateness for the subject property until such violation has been corrected. Any action to enforce this provision*

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shall be brought by the City of San Antonio.

- B.** *If construction, reconstruction, alteration, restoration, renovation, relocation, stabilization, or repair of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or on publicly-owned land, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then the license of the company, individual, principal owner, or its or his successor in interest performing such construction, reconstruction, alteration, restoration, renovation, relocation, stabilization, or repair shall be revoked for a period of three (3) years.*
- C.** *If demolition, partial demolition, or relocation of a landmark or of any building, object, site or structure found to have significance or location in a historic district, ..., occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period five (5) years with the exception of a permit to restore such structure or property after obtaining a Certificate of Appropriateness. In addition, the applicant shall not be entitled to have issued to him by any city office a permit allowing any curb cuts on subject property for a period of five (5) years from and after the date of such demolition. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of five (5) years from and after the date of such demolition or removal. The historic preservation officer shall cause to be filed a verified notice thereof of these penalties in the Real Property Records of Bexar County and all restrictions listed above shall be binding on future owners of the property for the time period specified. Additionally, in the case of an unauthorized demolition, partial demolition, or relocation that damages the building, object, or structure, a fine shall be imposed in the amount of 90 percent of the fair market value of the cost of replacement or repair of such building, object or structure as allowed by state law. No future permits shall be issued until such fine is paid, regardless of any five (5) year deadline.*

Additionally, Ms. Velázquez read into the record a portion of *Sec. 35-491 (c) (4) – Civil Enforcement., Penalties., Criminal Penalties Regarding Article VI, Historic Preservation.,* as follows:

- (4)** *Any persons, firm or corporation violating any section of other part of article VI of this chapter shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate violation for each day during which any violation hereof is committed. Upon conviction, each violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) per day for each day of each violation.*

Ms. Velázquez called the Office of Historic Preservation (OHP) in San Antonio and asked staff what their procedure(s) regarding code enforcement were. Their procedures are very similar to ours:

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1. Calls and/or visual violation(s) are noted;
2. Code Enforcement staff sent to investigate;
3. Code Enforcement staff issue violation(s) to the property owner; and
4. A timeline, for compliance, is also given to the property owner

Additionally, Ms. Velázquez asked OHP staff what their success rate for compliance was. Staff replied quite high.

Chairman Berchelmann remarked the OHP code has *teeth*. He clarified amendments to the code must be vetted through staff then to City Council.

Ms. Hamilton responded yes, City Council would have to approve any code amendments. She also pointed out similarities and differences between the City of El Paso HPO code and City of San Antonio OHP code.

In response, Ms. Velázquez stated she has several suggestions to amend Chapter 20.20. For example, it has been her experience that when property owner(s) are denied permit(s) until existing violation(s) are brought into compliance, those violation(s) are usually taken care of promptly. She would like this suggestion incorporated within Chapter 20.20.

Chairman Berchelmann suggested including *“if there is a violation for any other property owned by that property owner, within a historic district, that property owner could not receive any permit(s) until that violation is corrected.”*

Ms. Velázquez replied one property owner could own several different companies so that sometimes researching ownership can be difficult. However, commissioners and staff would consider the Chair’s suggested language.

Commissioner Gomez stated it is easier to track violations by an address rather than property owner(s).

Ms. Velázquez agreed. She then suggested including language *“if that property owner sells that property, the new property owner is responsible for any existing/pending violation(s).”*

Commissioner Moses noted the City of San Antonio, Office of Historic Preservation has a heavier stick than we do.

Ms. Velázquez agreed; furthermore, as far as historic preservation goes in the State of Texas, the City of San Antonio, Office of Historic Preservation is the best of the best. It was her opinion that the City of El Paso, Historic Preservation Office should emulate the City of San Antonio.

Commissioner Helm wondered what the historic preservation appeal process was in San Antonio.

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Ms. Velázquez was unsure if there was an appeal process in San Antonio. She noted there are some cities that do not have an appeal process due appointing commissioners, who are experts in their fields, to the Historic Landmark Commission. Therefore, the decision of the commission was, and should be, final.

Chairman Berchelmann commented on a proposed construction project in San Antonio; whereby, the company wanted to construct a hotel tower on top of structure. The HDRC (“Historic Design Review Committee”) denied the project. He believed that it was the City Manager, only, who could overturn the HDRC’s decisions, not the City Council.

Vice-Chairman Lopez asked what the OHP policies/provisions were for *demolition by neglect*.

Ms. Velázquez responded yes, there are provisions for demolition by neglect in the OHP.

At this time, Mr. Jose Solis, Communications & Public Affairs staff, explained that the due to weather conditions, City Manager Tommy Gonzalez is releasing all non-essential City personnel effective immediately. This will allow employees to avoid traffic congestion and the next storm front that is coming into the city.

Ms. Velázquez stated she would email her suggested amendments for Chapter 20.20 to commissioners.

Chairman Berchelmann reminded commissioners it is considered a violation of the Open Meetings Act if two or more commissioners are discussing any HLC business, outside of posted meetings.

MOTION:
Motion made by Chairman Berchelmann TO POSTPONE THE REST OF “OTHER BUSINESS” AND ALSO AGENDA ITEM 1. TO THE NEXT SCHEDULED MEETING ON OCTOBER 6TH. There was no second, motion died.

REVISED MOTION:
Motion made by Chairman Berchelmann, seconded by Commissioner Helm AND UNANIMOUSLY CARRIED TO POSTPONE AGENDA ITEMS 1., 4., 5., AND 6. TO THE NEXT SCHEDULED MEETING ON OCTOBER 6TH.



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- 5. Update regarding property located at 1033 Upson.

REVISED MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Helm AND UNANIMOUSLY CARRIED TO POSTPONE AGENDA ITEMS 1., 4., 5., AND 6. TO THE NEXT SCHEDULED MEETING ON OCTOBER 6TH.

- 6. Discussion and action regarding an amendment asking judges to fine violators and order remedies for violations and the Building & Development Permitting department issuing triple fines for violations. Must be presented to City Council. (postponed from 08.18.14)

REVISED MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Helm AND UNANIMOUSLY CARRIED TO POSTPONE AGENDA ITEMS 1., 4., 5., AND 6. TO THE NEXT SCHEDULED MEETING ON OCTOBER 6TH.

Prior to the early adjournment, Commissioner Helm asked Ms. Velázquez if commissioners should take action on the following agenda item.

- 7. Preservation Texas Honor Awards – The Mulligan Building, The Magoffin Home State Historic Site, 2731 Portland Avenue

Ms. Velázquez informed commissioners that she has spoken to the El Paso Community Foundation regarding the Preservation Texas Honor Awards. From that discussion, it was decided that The Mulligan Building would be nominated for “Best Rehabilitation”; The Magoffin Home State Site and 2731 Portland would be nominated for “Best Restoration.” She and Gary Williams of the El Paso Community Foundation will begin processing the necessary paperwork.

Chairman Berchelmann explained commissioners can nominate five properties to receive the HLC plaque.

Ms. Velázquez agreed.

NO ACTION WAS TAKEN.

- 8. Approval of Regular Meeting Minutes for September 8, 2014

Chairman Berchelmann asked commissioners if they had any additions, corrections, and/or revisions for staff. *There being none.*



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MOTION:

Motion made by Commissioner Lucero, seconded by Commissioner Gomez AND UNANIMOUSLY CARRIED TO APPROVE THE SEPTEMBER 8, 2014 MEETING MINUTES.

City Council

Prior to adjourning, Commissioner Moses noted he had researched the City of Fort Worth, Historic Landmark Commission decisions/appeals process. He explained all Historic Landmark Commission decisions/appeals are brought before the Historic and Cultural Landmark Commission.

District 1
Ann Morgan Lilly

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Lucero AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 4:31 P.M.

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