

M I N U T E S

ORMOND BEACH HISTORIC LANDMARK PRESERVATION BOARD

Regular Meeting

August 20, 2018

4:00 PM

Ormond Beach City Hall

Training Room

22 South Beach Street

Ormond Beach, Florida

I. CALL TO ORDER

II. ROLL CALL

Members Present

Gordon Currie
Suzanne Heddy
Shannon Julien
Ellen Needham
Robert Selover
Robert Walsh
Dr. Philip Shapiro

Staff Present

Ann-Margret Emery, Assistant City Attorney
Laureen Kornel, AICP, Senior Planner
Melanie Nagel, Recording Technician

III. APPROVAL OF MINUTES

A. February 19, 2018

Mr. Currie moved to approve the minutes as presented. Mr. Walsh seconded the motion. Vote was called and the motion unanimously approved.

IV. DISCUSSION ITEM

Code of Ordinances, Amend Historic Preservation Fees

Dr. Shapiro stated that the discussion item is a follow-up to what was discussed in February 2018. The item went before the commission, and they wanted the board to weigh in one more time on it and then send it back to them. So Ms. Kornel will review the item for us.

Ms. Kornel stated that she would review the background about amending the fees and the Code of Ordinances. This item came about last year when there were a couple of Certificates of Appropriateness that came through and the home owners decided instead of requesting a COA they wanted to be removed from the Landmark List. This board reviewed this at the February 7th HLPB meeting, and then the item proceeded to the City Commission, which then sent it back to this board for further discussion. Ms. Kornel explained she would outline the four preservation processes, and then briefly review the disadvantages and advantages from staff's perspective. Essentially there are four processes that staff works with - the Certificate of Appropriateness (COA) for exterior alterations, a

COA for demolitions, a landmark designation, and a landmark designation removal. Ms. Kornel stated that a COA for exterior alterations requires, at the very least, an administrative review when an alteration is for a locally designated historic landmark that is listed within the Land Development Code (LDC). Staff starts with an administrative review. From there, typically, any exterior alterations that are like for like are a matter of maintenance and do not require a formal public hearing. That means the board doesn't review those cases as they are reviewed at staff level. Staff makes a recommendation followed by a determination by the Planning Director. If staff believes the alterations are significant enough, they are going to require a public hearing. Examples of projects that would require a COA for an exterior alteration would be an addition or a partial demolition. Perhaps someone wants to change out windows or doors. Anything where there is significant architectural features being changed will come before the board. An example of something that the board reviewed recently would be 75 Lincoln Avenue. The renovations that went on with that project were fairly significant and so staff brought it before the board. To do a COA for an exterior alteration, the fee is \$600.

Ms. Kornel continued that a COA for demolition requires again, at the very least, an administrative review. The properties that staff looks at for administrative reviews for demolition are properties built prior to January 1, 1950, and also those that are designated on the local Landmarks List. If a property meets either of those two criteria, then staff completes an administrative review. Typically, designated properties considered architecturally significant would be Mediterranean Revival, Crossman, Bungalow, Queen Anne, East Lake, Dutch Colonial, Revival and Art Modern. Anything that's proposed to be demolished, whether it is on the Landmark List or not, if it was built prior to January 1, 1950, staff is going to review it. If it has a rare architectural style like any one of those just mentioned, chances are it's going to need a public hearing. An example of when staff did that was when the property owners at 201 Ocean Shore Boulevard were considering demolition, and they were trying to determine whether or not they needed a COA for demolition and so staff reviewed it. In the end, the owners decided not to proceed with requesting demolition. But that's an example of a property that's not on the Landmark List that staff reviewed and the Planning Director made a determination for a COA for demolition. If demolition had been requested, a formal public hearing would have been needed with review by the Preservation Board, with a fee of \$600.

Ms. Kornel stated that if someone wants to be on the Landmark List, it is voluntary. Because the list is codified in our Land Development Code, it requires four public hearings, including this board, the Planning Board, and two City Commission hearings. No fee is required to get on the list. If someone wants to get off the list, it is also voluntary. It requires the same four public hearings, and no fee is required. Those are the four historic preservation processes.

In the packet memo, there are four options that are outlined based on all of the discussions this board has had over the past year. Option One is being charged a \$600 fee to be removed from the Landmark List. There would be no fee to get on the list. Only a \$600 fee to get off the list. Option Two would be, and this is the option that the commission discussed, for the board to consider removing the historic Landmark List from the Land Development Code. Option Three, make no amendment to the Code of Ordinances, maintain the status quo, leave everything the same, no fee to be charged getting on the list, no fee to be charged getting off the list. Option Four would require a \$200 administrative fee to add or remove

a property in the Landmark List. That is the option that the board outlined at the February 2018 meeting.

Ms. Kornel reviewed the advantages and disadvantages of each option for the board. Option One - Charging a \$600 fee to go off the list. The city recovers a portion of the cost associated with designation. There is an equal cost between requesting removal and requesting a COA for a major exterior alteration. No fee would be imposed to be added to the list, so as not to discourage historic preservation through historic designation. Since the city has not wanted to discourage people from getting on the list, we haven't in the past charged a fee. The disadvantage is that the homeowner incurs a portion of the cost associated with landmark designation removal.

Ms. Kornel continued that the advantage to Option Two -- removing the Landmarks List from the Land Development Code - would eliminate the need for a Land Development Code amendment including three of the four required public hearings. However, there would still be an HLPB hearing required and those associated fees of around \$600. The Landmarks List would be amended through an ordinance requiring two commission hearings to add or remove a landmark property and there would be a newspaper ad fee of approximately \$200. The disadvantage would be the potential of applicants to circumvent the COA process by requesting to be removed from the Landmarks List instead of requesting a COA for alteration. An accurate list of landmark properties would not be as readily available to staff and the public. Staff believes that the reason the Landmarks List was codified in the Land Development Code was to have a systematic process in place whereby properties were designated and it was codified in the code to reduce confusion. If this option is recommended then staff would certainly recommend a fee of \$200 to be added or removed from the Landmarks List.

Ms. Kornel outlined Option Three as being no change, simply maintaining the status quo which would be that the list would remain in the Land Development Code. Typically, requests for landmark designation are uncommon. It's happened a few times in the past 11 years. The disadvantage is the potential to circumvent the COA process by requesting to be removed from the list and the city would still incur all costs associated with processing the designation removal.

Ms. Kornel continued by outlining Option Four requiring a two hundred dollar fee to be added or removed from the Landmark List. The advantage of Option Four would be maintaining the list in the Land Development Code, avoiding perception of unfairness since the same fee is required to add or remove a property from the list. And the disadvantages would be, again, potential to circumvent the COA process, and the city would recoup only a portion of the processing expenses associated with being added or removed.

In summary, Ms. Kornel stated that staff really does believe that it is to the City's advantage to have the list codified in the Land Development Code. It's an accurate list, in one common place, where people can go and find out if their house is on or off the list. Option one would not require a fee to be added to the Landmarks List. As such, people are not discouraged from trying to be added to the list. The potential is reduced to circumvent the COA process by requesting removal from the list. Also, with option one, charging a fee of \$600 for the request for removal, would be equal to the cost to request a COA for an exterior alteration.

In essence it kind of balances it out for review by the board. In the event the applicant requests removal, the city would recover a portion of the cost associated with the landmark designation. Staff recommends option number one for the reasons stated.

Dr. Shapiro stated that in 1986, the local Landmarks List was established for Ormond Beach. It served two purposes. One, to promote historic preservation, and the second one was to promote historical and cultural identity within the community. Before there was a local Landmarks List, a lot of sites and properties were lost. This is something important and he believes that whatever the board decides, they want to be sure that they are doing two things. One, make it comfortable for property owners to be on the list and stay on the list; and two, keep the Landmarks List within the Land Development Code. This is a very important process. As Dr. Shapiro looked the report over and read through the notes, Option Four reflects what the board talked about in February. If he were to use a default, he would go to Option Three, being that there had been so very few requests over the years that ever wanted off the list. But all in all, option four is what he feels comfortable with.

Mr. Currie asked if Option Four was \$200 to get on the list and \$200 to get off of the list. Dr. Shapiro stated that was correct. He doesn't believe there is any way that the city can break even on this. Mr. Currie then asked when the City Commission adopts the amendment, does it go into effect that night, and are people grandfathered in. Dr. Shapiro stated that the properties that are already on the list, they would be grandfathered in. They wouldn't have to pay \$200 for having already been on the list.

Mr. Currie asked if someone owned a home that is on the list, and then sold it after this goes into effect, do they still pay, or are they grandfathered in. Attorney Emery stated that if they were on the list prior to purchasing the property, they would not have to pay.

Ms. Heddy asked what if they sold the house. Ms. Julien stated that the person that now bought the house would have to pay to get off the list. Ms. Heddy asked Ms. Kornel what the cost is for the four public hearings to get on or off the list. Ms. Kornel stated about \$600. Ms. Heddy stated that even with a \$200 fee, the city is still losing money. She thinks it is important that the board make a recommendation to City Commission. We shouldn't just say we want to keep it the way it is, unless that's really how we want to go.

Dr. Shapiro stated that the way he sees it, Option Three would be only as a fallback if the board could not reach a consensus.

Ms. Julien asked if City Commission wants the Landmarks List taken out of the Land Development Code. Ms. Kornel stated that she did not attend the meeting, but she did read the minutes, and it did appear that it was one commissioner who raised the question and asked this board to consider it. Mr. Walsh stated it was just one commissioner.

Dr. Shapiro stated that as he sees it, it would be a mistake and he looks at the history throughout all of this area of Florida, and when you get too casual about your historic properties, what happens.

Ms. Julien asked who would be policing it if it is a city ordinance and something happens. Code enforcement? She thinks the board needs to break this decision into two parts. One, do we want it kept in the Land Development Code? And then two, the cost. She thinks that the board is in agreement that it should stay in the Land Development Code, correct?

Dr. Shapiro stated that when the board gets to the point of a recommendation, it should be put clearly in the recommendation that there are two components so that there's no ambiguity as to where we stand on this issue. He doesn't want to make any assumptions about anything. Does anyone on the board feel that we should take the Landmarks List off the Land Development Code? Okay. It is his understanding, as a board, that we want the local Landmarks List to remain within the Land Development Code.

Mr. Walsh stated that eliminates Option Two, and now the board just needs to make decision about the amount of money to be charged.

Ms. Julien stated that she gets the \$200 to be the same for coming on and off the list. But she also gets staff's position. If you make the taking off designation the same as the COA designation of \$600, then homeowners can't say, "Oh, this is cheaper. I'm going to go this route, just take it off the list." Just \$200 to take it off the list and to circumvent the \$600 COA, is not a really good reason to take a house off the list, so that they can do a renovation, especially if they can then come back on the list for free. Ms. Julien is leaning towards option one. Someone owns or has bought a house on the list, they already know it, and if they didn't know, that is their own fault, in her opinion. But, then there won't be any disparaging costs between trying to circumvent the system. That's what worries her.

Mr. Walsh stated that if the \$600 is bothering anybody on the board for being too high, then one of the ways to get around that is to put a stipulation in. He used \$200 as an example. It would cost \$200 to take it off but they can't come back on the list for a period of time. Ms. Julien stated that then it would hurt the community, because it won't ever get them back.

Mr. Selover stated that what is on the table are the four options that were presented, not amendments to the four options. Dr. Shapiro stated that the board could vary them a little bit if it meets the board's needs to give a recommendation.

Mr. Selover asked Ms. Kornel if she had a feel for what other comparable cities to Ormond Beach that had historic properties are doing compared to what Ormond Beach is doing. Ms. Kornel stated that it has been a while since she has looked at other codes. She has not invested a lot of time in seeing what other cities have done.

Ms. Heddy stated that in summary we are considering to leave the Landmarks List in the Land Development Code, and ask for a \$200 fee to cover the city cost to get on the Landmarks List. But, a \$600 fee to get off the Landmarks List, but then you would not have to apply for a COA. Is that what we're talking about?

Ms. Julien stated that Ms. Heddy is mixing two together. In Option One there is not a \$200 fee to get on the list. Ms. Kornel stated that has been done to avoid discouraging people from getting on the list. Ms. Julien stated that in Option Four, there is a \$200 fee to come on and off the list, and the \$600 for the COA.

Dr. Shapiro stated that the fairness issue was brought up at the February meeting, as to whether it is fair to charge to get off the list and not charge to get on the list. Ms. Kornel stated that the city can charge to get off the list, and not charge to get on the list, and it is not breaking any law. Attorney Emery stated that is correct, as long as they have adequate

notice in the ordinance. And she thinks in addition, just for perception, as long as people know going in, that's the case.

Ms. Kornel stated that there is a standard email that goes out. When somebody wants to be added to the list they receive information including the entire section of 2-71 of the LDC. And she explains that they are going to be subject to additional regulations if they ever want to do an exterior alteration on their house, and if they ever want to demolish it, they will definitely have to have a public hearing to request demolition. There is no reason the City can't add another statement in that standardized email that states, "This is voluntary. As such, you certainly have a right to request to be removed from the Landmark List if you wish, but there will be a \$600 application fee," or there will be a fee, whatever, that can change over time. But they will pay a fee to be removed.

Dr. Shapiro stated that if the city puts a \$600 fee to come off the list, he wonders about the political impact to the community if that word gets around. Ms. Kornel stated that she thinks it is unlikely that we're going to have to implement it very much based on requests the City has seen in the last 11 years.

Ms. Heddy stated that the city is sort of at a precipice. It's sort of at a place where we could go either way as far as historic preservation. She has never felt like that before in this city. So she thinks that whatever the board decides could have future implications as far as development and what people do with their houses. To her, the \$200 to get off the list doesn't solve the problem of the \$600 versus the \$200 for just getting off the list and not applying for the COA. That to her is the crux of this whole problem and she doesn't see the board coming up with a solution for that. She sees this as just sidestepping it once more.

Dr. Shapiro stated that what the board did back in February was on target and was quite fair. Option Four is giving people that fairness, but the board has to make it clear to the City Commission, that the local Landmarks List in the Land Development Code stays codified. The fees will never cover everything.

Ms. Heddy asked Ms. Kornel what her objection would be to Option Four. Ms. Kornel stated that the homeowner could still circumvent the COA process. It is not really solving the problem.

Ms. Julien stated that she thinks that this all started because the city was losing money on the way the process is presently done. Discussion started when one person couldn't decide whether they wanted on or off the list, and it involved extra meetings and staff time. Ms. Julien thought the reason this came up in the first place, had to do with money. Ms. Kornel stated that money is part of it, and the other part of it was circumventing the COA process.

Dr. Shapiro stated that when the Iron's house came up for a hearing in 2013, with all the consulting work that was done as a city to make the case clear that the property really could not be saved, \$600 wasn't going to come anywhere near close to covering the cost of time and research. This is not going to be a profitable operation on one hand, but on the other hand, we are preserving the cultural and historical integrity of the community which would have no other mechanism to do that. That is where Option Four becomes the best pathway.

Ms. Julien stated that staff doesn't think that Option Four is the best. They think Option One is the best. She is going to rely on staff's suggestion.

Mr. Walsh stated that he thinks Option One accomplishes two issues that have been raised. The first issue is that we continue to support adding properties by charging nothing to get on the list. And the second issue is the whole circumventing issue, which in his mind, he really questions how big a problem it really is. The \$600 fee does accomplish that.

Mr. Currie asked how many years does it take to designate a property as historical. Ms. Kornel stated that if someone wants to get on the Landmark List, there isn't a required date of construction. When someone is talking about a designated landmark property, there's no requirement for how old or young it has to be. However, if you're talking about demolition, then they use January 1, 1950. When staff and the board reviews for demolition, it is considered historic by age if it was built prior to January 1, 1950.

Mr. Currie stated that it would be around 50 years then. Dr. Shapiro stated that there are three criteria to get on the local landmarks list: unique architecture, unique history to the property, and then cultural significance of the property. In other words, something built, say in 1905, may or may not be eligible. Although chances are, in 1905, we're going to find something. But it is not age alone that makes it eligible. And the city follows Department of Interior guidelines when it comes to anything for a COA - renovations, demolitions, whatever is before us.

Ms. Heddy asked Mr. Walsh if he was thinking about Option Four to encourage people to stay on the list. Mr. Walsh stated that he is thinking Option One. Ms. Julien stated that she is thinking Option One as well.

Ms. Needham stated that she also likes Option One. She thinks we need to preserve the number of houses that are on that list right now and keep it in the Land Development Code. And she likes the idea of not making it so easy for people to get off. Isn't that why we started this discussion was because people were jumping off? Even if it was only two; if there's only 50 or 51 of them to begin with, we need to protect the homes that are currently there. Because if they jump off, they are not coming back on.

Dr. Shapiro asked if the city is looking punitive if it goes from \$0 to \$600. Ms. Julien stated that she thinks the equity comes in at the \$600 and the \$600. It is \$600 to come off, it is \$600 to do a COA. That's still equitable between those two things. Ms. Needham stated that it didn't cost them anything to get on the list. The city has to pay for the advertising. So, if we somehow can get that wording in there, if they want to be removed they need to pay for the advertising.

Dr. Shapiro stated that in February it was brought up about the fairness and equality for in and out. Attorney Emery stated that there is the legal point for that and the perception part of it. She doesn't know the perception part of it and how that may come across, but from her perspective, as long as there's adequate notice of the change, and she doesn't believe that it is going to affect the houses that are now on the list. It is the new people that come on, and they are going to have the notice that if they get off the list, there is going to be an additional charge. And as long as they have notice that that is going to happen, then that is okay, outside the perception issue.

Mr. Selover stated that back in February when we talked about Option Four and we all mutually agreed upon that, he can remember that he thought the \$200 fee was too low. And

he went with the flow. So he is wondering if it is possible to consider Option Four, with a \$300 or \$400 fee, coming in and coming out, as an alternative to Option One. Like he said, he went with the flow, but the \$200 fee seemed to be too low. Ms. Julien stated that then we would be discouraging people to come on the list.

Dr. Shapiro asked Ms. Needham, from a real estate point of view, would \$300 discourage people from coming on the list. Ms. Needham stated that the only person she personally knows who bought a historic home is herself. \$200 wouldn't deter her and neither would \$300 or \$600. If she is very proud of her home that she has redone and she wants it on the historic list, it would not faze her. But it's like the people that owned the house that came off this summer with no discussion at all. She thinks it might have impacted them, and that is why they wanted off. They didn't want to pay the \$600 for the COA.

Mr. Currie stated that there has not been anything to come in or anything to get out. Now we are talking about \$200 in and \$200 out. Why don't we give it a chance and see how it works. If it doesn't work, we can amend it later and raise the fee.

Dr. Shapiro stated that was what he was thinking. He was thinking of \$400 with \$300 as a default if the board couldn't come up with anything. But at least with \$400, we've got the element of fairness, we're talking very, very few numbers in the community, and we have the breathing room, that if we are too low, we can revisit this, which is something he said back in February, It's an ordinance. It's not an absolute. It can be amended. At \$400, he thinks it is politically safe. He is not so sure Option One is going to be politically safe, but that's not what we're here for.

Mr. Selover asked for clarification that if somebody buys a house that is already on the list, are they still own it. Several board members replied that they would be on it. Ms. Heddy stated that if they want to get off the list, they would have to pay.

Ms. Julien stated that she doesn't understand the political comment. She doesn't think this has any political ramifications. Ms. Heddy stated that the board needs to think about this logically, and everyone's comments are important. Are we now talking about \$300 to get off and on the list?

Dr. Shapiro stated that it is at \$200 to get on or off the list. We had talked about \$300, and he wanted to know from a real estate agent if that would make a difference on getting people to come on the list. Dr. Shapiro has been on the board for 13 years, and there are very few who want to come off the list. If we start seeing a number of them, then the question is, why.

Ms. Heddy stated that it would be very hard to turn that canoe around upstream. We have to think about the future. We can't just say, "Okay. Well, that sounds great." Ms. Heddy would like to do \$300 to come in and out. That will recoup half the cost on both ends. It will provide a chance to leave it within the Land Development Code, which seems like a good idea to do. And the board should make a recommendation to the City Commission. That's a little bit different than what we did before but yet, still firmly restates the fact that what we are about is historic preservation and we would rather have that happen.

Dr. Shapiro stated that because of the way it has all been presented to the board is like a full package, and the Land Development Code is a separate issue. We've got to get that

clarified, that we want that left alone. And then the money is a different issue, so there should be no ambiguity about our sentiments as it goes on to the City Commission. So it would have to be two motions.

Mr. Selover stated that both Option One and Four, which are what we are discussing, both of them specifically say that the Landmark List can remain in the LDC. So we don't have to discuss that part of it.

Dr. Shapiro asked if there was anything that has not been discussed before the board entertains a motion for recommendations. Ms. Julien stated that she is not sure that the board is ready for a motion. She feels like the board needs to hone down to which option they are going to amend. She doesn't know that everybody is in agreement with Option Four, and she doesn't know that everybody is in agreement with Option One. She doesn't hear anybody talking about Option Three. So, Options Two and Three are out. She feels that the board needs to get down to which option they are going to amend.

Ms. Kornel stated that it needs to be based on the original issue, which was that people were circumventing the process. Ms. Julien stated that she doesn't believe there should be a fee to come on the list. We should encourage people to get on the list. But, she thinks the fee is being equitable and fair of \$600 for a COA and \$600 for coming off the list. That is still fair. It's the same fee. It's not like we're trying to say, "You want to come off? Now it is \$1,000 but you can do a COA for \$600." Those fees are exactly the same. To her, that is fair.

Dr. Shapiro state that he is concerned about having no cost for entrance onto the list. Ms. Julien stated that there is still a cost to the city, but there's also a benefit to the city. You are still preserving your historic areas. Your landowner still has somewhat of a benefit if the properties come at a higher value, which we've discussed in the past. So it creates a win-win to come on. The city wins because we're saving these properties.

Ms. Kornel stated that the board would be encouraging historic preservation through the tool of landmark designation by not charging a fee to be added to the list. Ms. Julien agreed and stated that if people really want to be removed from the list, they are going to come off. If they want to do renovations, they are going to do renovations. They are just going to pay the money because that's what the fee is. It's not absorbed - she would bet the city's fees to do some of these changes is probably more in the tune of \$1,000 to \$1,500 dollars for staff time and advertisements. So it's not like we are trying to take advantage of them. Still, they are not paying real-world fees. But we are still encouraging historic preservation, which is what Dr. Shapiro said the mission of this board was, to encourage preservation.

Ms. Needham stated that she agrees with Ms. Julien on Option One. Mr. Selover stated that he also agreed with Ms. Julien. Mr. Walsh also agreed.

Dr. Shapiro stated that if there was no further discussion, would Ms. Julien like to make a motion.

Ms. Julien made a motion to recommend to City Commission Option One, keeping the Landmark List in the Land Development Code, charging no fee for coming on the list, keeping the \$600 COA fee, and adding a \$600 fee for coming off the list, to be consistent and fair with the same class as the existing COA fee. Ms. Needham

seconded the motion. Following a brief discussion, vote was called and the motion was approved (6-1) with Mr. Currie dissenting.

V. MEMBER COMMENTS

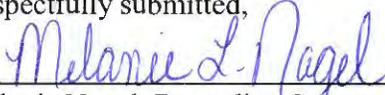
Ms. Heddy stated that she has seen a proposal from Lewis Heaster and Bill Chapin for a major alteration to the Stout-MacDonald House. Is that anything that has come before the city yet? Ms. Kornel stated that she is not aware of anything on that property. She heard that they may be getting ready to do some more work on the tower, and the Planning Department has had discussions with the Engineering Department that they will need a historic review. But she is confident already, from what the Engineering Department described, the possible project will be in keeping with the MacDonald House Historic Structures Report, so it may end up being an administrative review. No major project has been presented to her.

Dr. Shapiro stated that he needed to share something with the board members, because sometimes they go a long time between meetings, and the next meeting might not be until 2019. He is here as a liaison from the Historical Society Board. In 2019, he will not be serving on their Society Board. He needs to communicate with the City Commission as to his options to serve on this board in 2019. Obviously, he couldn't be serving as a liaison if he is not on the board that sent him here. Hopefully, it all works out smoothly. He has enjoyed working with all of the board members. We have gotten many, many things done and hopefully when the board reconvenes in 2019, he will still be part of the board. If, by any chance, it does not work out as he hopes, he wants to thank everyone for everything. It has been a pleasure and he hopes that it continues for a long time to come.

VII. ADJOURNMENT

The meeting was adjourned at 5:05 p.m.

Respectfully submitted,



Melanie Nagel, Recording Secretary

ATTEST:



Dr. Philip J. Shapiro, Chairman

Minutes transcribed by Melanie Nagel