

Historic Preservation Board



Minutes

57 E 1st St
Mesa, AZ

Date: November 1, 2022 Time: 6:00 p.m.

MEMBERS PRESENT:

Brandon Benzing, Chair
Jim Babos, Vice-Chair
Jocelyn Skogebo
BJ Parsons
Russ Haughey

MEMBERS ABSENT:

Bruce Nelson

STAFF PRESENT:

Dr. Nana Appiah
Charlotte McDermott
Michelle Dahlke
Maura Jackson
Jeff McVay

GUESTS:

Vic Linoff

(*Board members and staff participated in the meeting through the use of telephonic and audio conference equipment.)

1. Call meeting to order.

Chair Benzing

We'll call the November meeting of Historic Preservation Board to order at 6:02 pm. Let's move item number three to the first order.

3. Approval of the minutes from the August 2, 2022 Historic Preservation Board meeting.

Chair Benzing

Are there any comments on the meeting minutes? Or do we have a motion to approve?

Vice-Chair Babos

I make a motion we approve the August 2nd meeting minutes.

Chair Benzing

Do we have a second?

Boardmember Parsons

I second it.

AYES: Benzing-Babos-Skogebo-Parsons-Haughey

NAYES: None

ABSENT: Nelson

2. Discuss and elect a Historic Preservation Board Chair and Vice-Chair for 2022-2023.

Chair Benzing

We'll move to item number two which is discussing electing the Historic Preservation Board Chair and Vice Chair for 2022 and 2023. Does anyone have any desire to Chair or Vice-Chair this upcoming year? One item to note is that I term out after two terms. So, if I continue it would be for like five or six months and then the Vice-Chair would get promoted and another Vice Chair would be elected at that time. Correct? So, I am more than happy to step aside and let somebody else chair if there is that desire.

Vice-Chair Babos

You're doing a great job.

Chair Benzing

Okay. If we want to keep it the same, that is perfectly fine. We will just need a motion. Somebody will have to motion for who they would elect for Chair, Vice-Chair, and then we would need a second for that.

Vice-Chair Babos

I'd be happy to be Vice-Chair knowing that in June I'd be moving up.

Chair Benzing

So, do we have a motion to keep Chair Benzing as the Chair and Vice-Chair Babos as the Vice-Chair?

Boardmember Haughey

I move Chair Benzing, and Vice-Chair Babos continue in that capacity.

Chair Benzing

Do we have a second?

Boardmember Parsons

I second it.

AYES: Benzing-Babos-Skogeto-Parsons-Haughey

NAYES: None

ABSENT: Nelson

4. Items from citizens present.*

Chair Benzing

Moving on to item number four, do we have any cards for any citizens present?

Michelle Dahlke

We don't have any blue cards, Mr. Chairman but I believe Mr. Linoff, our normal guest, is here. Perhaps he has something to share.

Vic Linoff

I suppose I should fill out a card for you. Vic Linoff, 628 N Center Street in Mesa. If you don't mind, there's a couple of things I'd like to talk to you about tonight.

One, is the Historic Preservation Conference, which concluded last weekend. Unfortunately, I don't think any of the Board members made it. But Maura was there and Jeff McVay from the city. Jeff didn't make it? Oh, he had a session or was in a session. Hopefully he was there. Anyway, one of the important parts of the conference is the Certified Local Government training. I think Maura got a copy of this. I think if anyone wants one, Arianna Urban, who preceded Maura put all this together and it's really a good document. I think there may be extra copies at SHPO, or you could probably get it in an electronic version. So even though you weren't at the conference, this is a valuable document that I think is worth reviewing. Next year it may be a little bit closer. The decision hasn't been made, but I think it'll be in Phoenix or Tucson, so that should be a lot easier for Board members to attend.

The other news is more troubling. One deals with the Buckhorn Baths. Recently, Tim Boyle Designs, who is doing the architectural design for the entire site and is kind of a spokesperson for the owner, has submitted an early concept plan. I think, again, Maura can probably provide that to the Board if you haven't received it. What's troubling is that it concentrates on the development of the entire property, excluding the Buckhorn. Which they have said previously would be in a phase following the initial construction. Meanwhile, the Buckhorn continues to deteriorate to a point where we are really concerned now. There is a term in preservation called demolition by neglect. That seems to be the case every time we go by there, it is in a more and more deteriorated condition. So, I think that at some point, it would be helpful for the Board to invite Tim Boyle in to discuss what the plans are for the Buckhorn, and how it might be stabilized until they get around to actually doing work on it. Otherwise, this may just be a footnote in the history of Mesa and that would be a real shame. The other thing, and I guess I talked about it last month with you is the Kiva Motel. The developer is Chicanos Por La Causa Development. That's a for-profit division, or arm, of the nonprofit Chicanos Por La Causa. They have expressed, rather firmly, their desire to

demolish the Kiva. As a result, that's now very much at risk. I think the Board really needs to be involved with this. It is not a designated property. But SHPO has expressed the opinion that it would be National Register eligible. It's going to take a community's effort to hopefully persuade the developer to reconsider and save that property. It is the earliest remaining lodging property on Main Street. The original building, which was set up for tourism, with Indian gifts and other kinds of things for roadside travelers, started in the 20s. Then the motel cottages were built in the 1930s. The sign they have said, will go to the Mesa Preservation Foundation if they demolish it. To be frank, we don't want it. We want it to stay exactly where it is. It tells the story very well of the Kiva. If it's removed, it loses its context. It just becomes an interesting sign. The question is, well, what did it represent? So, we are trying very hard to get that property saved. I would respectfully ask the Chair, to agendaize that for your next meeting, so that you can discuss it. I know you can't talk about it now. Because it hasn't come to the Board is troubling to me. Your role is to consider and advise to the City Council. I can tell you that we have had the Mayor and a couple of Council members actively involved with this. So, they are aware. I think some recommendation from this Board would be appropriate in trying to save that. So that's all I've got for you. Thanks.

Chair Benzing

All right, thank Mr. Linoff.

Michelle Dahlke

Mr. Chairman, if I may, and Board members, per your bylaws at the direction of you as the Chair, you can advise us to put an item on the agenda or upon the written request of three Board members.

Chair Benzing

Okay.

Michelle Dahlke

Would you like to direct us to place that item on the agenda for next month?

Chair Benzing

Yeah, we can place the Kiva on there. Can we place the Buckhorn on there? Does the city have items they can share with the Board? Or is that something that's not yet been released by ownership.

Michelle Dahlke

They have submitted a Pre-Submittal application. So, the beginning stages of some concepts. If you'd like to put that on the agenda, you can direct us to do that.

Chair Benzing

Yes.

Michelle Dahlke

I also wanted to mention, Mr. Chairman, that the attorney for Chicanos Por La Causa did send us an email and asked if they could also come to you next month to give you some information on the project.

Chair Benzing

That would be terrific if they could. Put that on the agenda. So, put Buckhorn and Kiva on there. If anybody from the Buckhorn ownership or development company wants to come and speak, we can do that as well.

Michelle Dahlke

Okay, thank you.

Chair Benzing

Moving on then to item number five, which is HPO updates.

5. Historic Preservation Officer's Updates.

(The items in the Historic Preservation Officer's updates are not for Board discussion and no Board action will be taken on the updated items.)

Michelle Dahlke

The most exciting update for today is that Mary Kopaskie-Brown, our new Planning Director, starts next week. So, you will be meeting her soon. We'll introduce you to her in December. We're really excited to have her onboard. I know Maura and I have some other updates. What would you like to start with Maura?

Maura Jackson

Chair and Board members, I know that you're waiting on some updates on the text amendments and the HP Guidelines. We are still reviewing those and we're hoping to have a more substantial update for you next meeting. We're working on those. Then we're also compiling and reviewing the surveys on the Post War properties. We're hoping to have an update for you at the next meeting as well. That's all I had.

Michelle Dahlke

That is all for the updates, Mr. Chairman.

6. Discuss programs to celebrate Mesa Historic Preservation Month including but not limited to events and outreach efforts.

Chair Benzing

So just looking ahead to May, if we do schedule May, that usually will give us four meetings until May. Typically, because we fall on the first Tuesday, we usually don't meet in January. So that'd give us December's meeting, February, March, and April. I think, between now and December, at the latest March, we at least need to kick the tires to understand the scope of what we want to do, the size of this event, and then start honing in on a date in May. There are four Saturdays. As we're kicking the tires, we can see what kind of partner organizations might want to be involved in the event. As far as the scale of it, we'll have to look at what presenters, what topics we want to cover. What this event actually is. We can discuss locations, and what the whole thing would be. If it's a couple hours, or if it's a half day event. Just how we want to organize it. If it has vendors or not. How that all works out with the city and how we deal with that. Does anybody have any thoughts after the meeting, or retreat?

Boardmember Haughey

Are there any events during that time that we can take advantage of?

Maura Jackson

All that we have are the video and essay contest. We'll hopefully do the winners of that again in May. Then we're also hoping to do the HP awards in May as well. I don't know if you want to do that at the same time.

Chair Benzing

It would be nice if we can pull this event together to have those presented at that event with the Mayor and a few Council members instead of at a City Council meeting and have it a little bit larger. The Historic Homes Tour that the Foundation puts on it's usually in March, correct?

Vic Linoff

The Foundation doesn't do it. The Mesa Historical Museum does and it's usually in January. Because of COVID they have not done it for a couple of years. I don't think they will be doing it this January. They're working on it for the future.

Chair Benzing

Okay. That's the one event that usually would tie into it. Since it was majority outdoor and in and out of houses, it usually doesn't work in May. Other than that, I don't know of any historic events in Mesa that take place in that month.

Vice-Chair Babos

The year right before I joined, I believe there was an open house at the Serrine House.

Chair Benzing

That was part of the homes tour.

Vice-Chair Babos

Perhaps we can have that as an open house. Get it published, and then have the award presentations and all that at that house. I would suggest keep it to a couple hours or the morning may can be warm.

Chair Benzing

Yes. The Sirrine House does fall under Parks and Rec. It is a city run property. So, I think we can manage doing that. But yeah, I agree. I think at least for the first year it seems like we keep the scale relatively compact.

Vice-Chair Babos

Bruce isn't here, so I'm thinking for Bruce today. He's always touting the Alston House. Those two are relatively close together. I don't know if it's possible to have the main function at the Sirrine House and then some sort of an ancillary event at the Alston House. To tie it together and introduce it to the public. I think the majority of people in Mesa don't even know that building exists and the historic significance of it.

Chair Benzing

Right now, the two programmed pieces that we'd have would be the Historic Project Preservation Awards, and then the Youth Essay and Video Awards. So, we have two awards to give out. When we did it last time, we had light refreshments and that lasted about 15 - 20 minutes. We think with the Mayor and everything that's about a 30-minute window. We could fill in before that with another type of program. We just would have to come up with. Put feelers out there for who could present and what a topic would be. Bruce is the one that has the most connection with the history of Mesa on the Board. I know he did a film I think, at the ASU opening, so I'm sure he has something or some connection. We could touch base with him and see if he would know of somebody that would want to present something that's relative to the preservation of Mesa. And then, as a Board, we put together a little five-minute dialogue of what we do, introduce ourselves. Also put out the public announcement of, we're a public Board and open to members applying. That's always a good outreach.

Vice-Chair Babos

Perhaps, I don't know if we're allowed to do this, we can somehow present the Kiva Hotel, the Buckhorn Baths, and the Post-World War Two Survey that we're creating, or you're creating, and somehow present that or even just have it as a Board for people to look at there.

Chair Benzing

We'll have to talk about the Kiva and the Buckhorn since it's within the city workings as projects. But I definitely think the World War Two stuff needs to be put out there. That's the discussion of the benefits of Historical Neighborhoods and Historic Designation, because those are the ones that have been identified. But it's really the residents that have to put the application together to be a Certified Historic Property/Neighborhood. So that's a good place to present that to a lot of people.

Boardmember Skogebo

Are there any students, I'm thinking of ASU and students back in the day at Design/Architecture schools, that could somehow create a class project or something educating the public on these homes or specific places. Has that worked in the past?

Chair Benzing

We had Milagros, she used to be on the Board, had a few projects that Mr. McVay was involved in as well, through ASU. She was our connection. That school has gone through quite a bit of turnover in the last 12 months. I don't have any connections there anymore. I think it's probably too late to get a project moving for this year's curriculum. But we could possibly try and figure it out and see if there's some interest for next year.

Boardmember Skogebo

Or the film school students.

Chair Benzing

It's good to see the activity. I mean, it's a little bit tonight, but still, it's interesting, you know, it's changing the dynamic.

I think we can, given that we do have four meetings, really bring this thing together. If we do it in the middle of May, we'd have five meetings and use May to really tighten everything up. We should at least have our decisions made at the February meeting. That means we could probably have some more discussion on potential topics, presenters, and such. Given that we'd be doing about 1-to-2- hours, we could say the awards are probably going to take 30 minutes, and a presentation of the Board and possibly the World War Two Neighborhoods could be in the 15-to-30-minute range. So, we could probably find something that could do a 30-to-45-minute presentation on something. Then we'll probably be in that 1-to-2-hour range at that point. If we want to think about and agendize this again for next month, then we can keep talking about it. If anybody has anything in mind, as far as who we could reach out to, or if anybody does reach out to anybody in the next month before December's meeting. I'll email Board member Nelson and see if he has anything.

Vice-Chair Babos

I'm just looking at the calendars and Cinco de Mayo. I don't know if the city or other entities put on any sort of event downtown but if they do, that would be a great time to . . .

Chair Benzing

Tie it into it.

Boardmember Haughey

Seems to me there's something in Pioneer Park, usually at that time for Cinco de Mayo.

Chair Benzing

I think we're kind of all in agreement, it seems like if we keep it small, we're only really trying to source one potential presenter, some sort of topic. The rest will be internal to the Board as far as the award celebration and then the World War Two Presentation and introduction of the Board and the program. Does anybody have anything else you want to add to that at this meeting today? Okay, well, if we kind of want to just think about. Cinco de Mayo's celebration is Saturday the sixth. It's the day after so if there is a weekend celebration, that would be that first weekend. It's pretty close. Then the other ones, the 27th is out because that's Memorial Day. So, it's really three weekends in May. Next month we can talk about if anybody has updates on any ideas, presenters, or topics. We can also discuss the location. Maybe you guys can look and see if there's any events going on early to mid-May in the city.

Michelle Dahlke

Yes, Mr. Chairman and Board members. I was just going to say that we could look into a few things between now and the next meeting, such as the Sirrine House and the Alston House. Maura has connections now with who runs those facilities. We kind of just put it in their ear, this is what we're thinking, how would that work, so that we can come back and let you know. Is there anything else that we can look into for you before next time?

Chair Benzing

If we're going to do the awards, and we'd like at least the Mayor, Vice-Mayor, and a few Council members there, should we reach out to them and just put a bug in their ear? If we're thinking about doing a celebration in May and we're trying to put this together we should see what works with their schedules.

Michelle Dahlke

Yes, absolutely. I'd be happy to contact the Mayor's office and get that conversation started and I will report back in December.

Chair Benzing

Sounds good. Then we will move on to item number seven.

7. **Hear a presentation and discuss Arizona Open Meeting Laws, Conflict of Interest Laws, and City of Mesa Historic Preservation Board Bylaws.**

Michelle Dahlke

The Board's Attorney Charlotte is here, and she has a presentation for you on all these items.

Charlotte McDermott, Assistant City Attorney, displayed a PowerPoint presentation and then called for questions. **(See Attachment 1)**

Chair Benzing

Thank you, Charlotte. Quick question, on interacting with the public during meetings. For newer Board members, we do have the section that we always agendized "items from citizens present" which we cannot discuss those items with them. Citizens are allowed to talk if they put in a request to speak on any agenda item, right?

Charlotte McDermott

That's correct.

Chair Benzing

At the discretion of Chair or Vice-Chair, whoever's running the meeting or no matter what they have that?

Charlotte McDermott

You have "items from citizens present" on your agenda. So, if someone from the public submits a blue card and wants to speak, they can speak under "items from citizens present" on any matter that's within the jurisdiction of this Board.

Chair Benzing

Would they be able to speak on say, item number seven? Like this topic, as it's agendized? Can they put in a card and speak on item number seven? Which is this discussion about Open Meeting Law? And then is the Board allowed to interact with them on that, since it's written as "discussed"?

Charlotte McDermott

That's correct. So, they can ask to speak under "items from citizens present", they can ask to speak under agenda item seven, and because that item is specifically agendized, with specificity, then yes, the Board could interact and ask questions and have a discussion. If it's not something that's specifically on the agenda, for example, "Historic Preservation Officers Updates", that

doesn't have a lot of specificity, or if they were commenting about "Current Events" that's not agendize with enough specificity. It's too generic, you wouldn't be able to have a discussion.

Chair Benzing

Right. But when it is something that has specificity, the Board is allowed to engage with the public?

Charlotte McDermott

Absolutely.

Chair Benzing

The next one, just because we've never run into this, we've never run into where we haven't had a quorum because people have had interest. If there is not a quorum, we can't vote on things. Is that item allowed to be discussed, and just no vote, or it's just off the table, off the agenda and then tabled to the next?

Charlotte McDermott

That's not a meeting, because you don't have a quorum of the Board. Under your bylaws, you need to have at least four to have a meeting. So, if there were three and if you've agendize that meeting, then you would postpone that meeting, because you don't have a quorum of the Board.

Chair Benzing

I guess what I'm asking is if we have a quorum of five, and an agenda item comes up, and there's two Board members that have a conflict of interest, so we technically can't take any action, we can't discuss that item either correct?

Charlotte McDermott

If there's five Board members and then two have a conflict, then there's only three so you couldn't discuss those items. You would have to place that item on a future agenda. Any items though that you have the five, or even if you had four, you could have a discussion on those.

Chair Benzing

Okay. Any other questions?

Vice-Chair Babos

I had a couple quick questions for clarification. This Board there are seven members. A quorum is four. If three of us are talking outside afterwards, there's no problem with that?

Charlotte McDermott

If three of you are talking outside, you're not violating the Open Meeting Law discussing Board business outside. However, always keep in mind the splinter of the quorum. You might be having

a discussion with you and two other Board members, so three, but then you also have to consider has that other Board member had a discussion with somebody else? Then potentially, there's four. You have to be careful and ask, have you talked to any other Board members? Then if you've had that discussion with three, that you don't have a discussion with any additional Board members.

Vice-Chair Babos

Okay. And under violations of the Open Meeting Law. There was one, if I understood right, that potentially the Board member who is in violation is financially responsible for attorney costs. If it came to that, is that correct?

Charlotte McDermott

There are civil penalties under the Open Meeting Law. It depends on if there's an "intent" to violate the Open Meeting Law, and how many violations. So, there's a lot of factors that are considered. Typically, what I've seen in the cases in the paper is they start with either posting a letter or training on Open Meeting Law before it gets to ... but it really depends on the "intent". Are you knowingly doing this?

Vice-Chair Babos

Okay. And then our staff liaison, I assume is Maura, is that correct? Or Michelle?

Michelle Dahlke

You have two.

Vice-Chair Babos

All right.

Michelle Dahlke

We're at your service.

Vice-Chair Babos

Okay. Thank you very much. I'm glad you told us this after I accepted my position on the Board.

Charlotte McDermott

If any questions come up in the future, just give me a call or send me a text. I'm happy to answer any questions.

Chair Benzing

Thank you.

8. Hear reports from Board Members of current events related to historic preservation.**

Chair Benzing

Any Board members have any current events related Historic Preservation?

I do not have any at the moment. I know we are planning an event for the American Institute of Architects coming up in March, usually, for some type of historic presentation. I'm part of the Archives Committee there. Our goal is to gather as many hand-drawn documents of historical properties within Phoenix, and even the state range. We usually put together our fundraising program in March. But hopefully, coming up in January I'll have more information that's more solid on that one.

9. Future agenda items.**

Chair Benzing

If there are no more updates, then does anybody have any additional future agenda items besides the Kiva and the Buckhorn? Then we'll also keep the discussion on the celebration of Mesa Historic Preservation Month on the agenda as well.

Vice-Chair Babos

Will we be discussing the student essay project and topics?

Chair Benzing

Yes, we should. Can we put that on the agenda as both discussing the timeline forward and also coming up and voting on a topic next month?

Maura Jackson

I'd also like to give a presentation on the Certificates of Appropriateness from 2022.

Chair Benzing

Great.

10. Adjournment.

Chair Benzing

If we have no other future agenda items, then do I have a motion to adjourn?

Boardmember Haughey

I motion to adjourn.

Chair Benzing

Do I have a second?

Vice-Chair Babos

I second.

AYES: Benzing-Babos-Skogebo-Parsons-Haughey

NAYES: None

ABSENT: Nelson

Chair Benzing

Then we will be taking a tour of the studios after this.

Michelle Dahlke

Yes, Mr. McVay is here ready to go.

Chair Benzing

Thank you everybody. I guess I have to say this meeting is adjourned at 7:05 pm.

11. Tour of The Studios @ Mesa city Center Building located at 59 East 1st Street in Mesa.**

**A recording of the meeting is available upon request. Please contact the Planning Department with questions, 480-644-2385.

CITY OF MESA HISTORIC PRESERVATION BOARD

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OPEN MEETING LAW CONFLICT OF INTEREST AND HP BYLAWS

Part I.

OPEN MEETING LAW

Arizona Open Meeting Law

Arizona Revised Statutes

Title 38, Chapter 4, Article 3.1

A.R.S. § 38-431.09

“It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided.”

Definition of a “Public Body” Under the Open Meeting Law

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A.R.S. § 38-431

"Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of...political subdivisions. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body.

What is a Meeting?

- Meeting: The gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action on a subject that is reasonably likely to come before the public body.

Traditional
Meeting



Electronic
Meeting



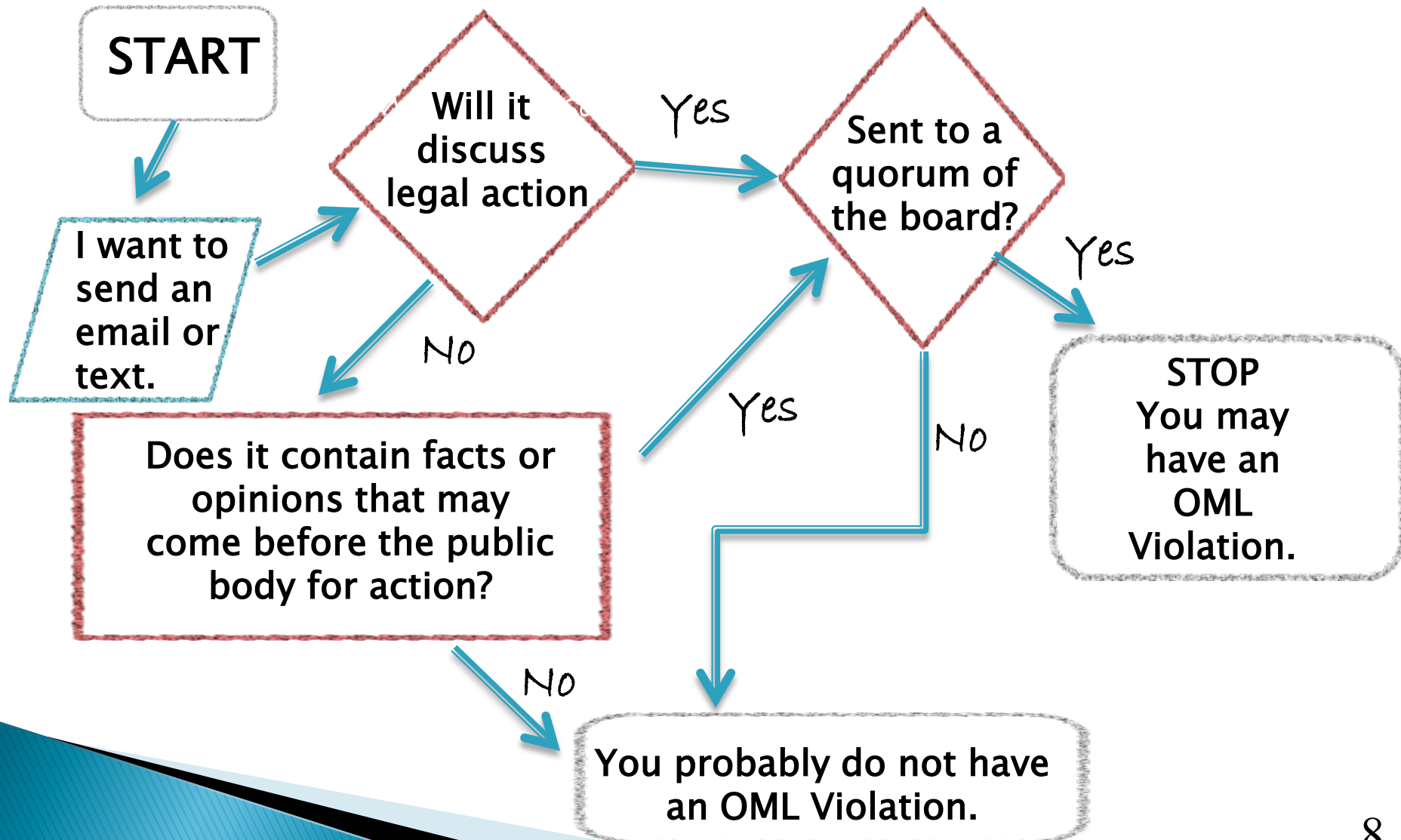
What About Social Events?

- If a quorum is present at the social event, and members discuss topics that may reasonably require action, an OML violation may occur.
- Best Practice: do not discuss Historic Preservation business or items that may come before the Historic Preservation Board with other members outside of a formal, noticed, and agendized meeting.

What is a Serial Meeting?

- Serial Meeting: the gathering, in person or through technological devices, of less than a quorum of the public body at which they discuss, propose or take legal action, and later the same discussion is had with other members of the public body which constitutes a quorum.

Sending Emails or Texts



Social Media

- ▶ A board member can express an opinion or discuss an issue with the public at a venue other than a meeting, through the media, other public broadcast communications or technological means if:
 - The opinion or discussion is not principally directed at or directly given to another member of the public body.
 - There is no concerted plan to engage in collective deliberation to take legal action.

Social Media

You post comments about Board business on your private social media page—where you just happen to be “friends” with other members of your public body.

Possible OML Problem

- Be careful liking comments; re-tweeting.
- Do not direct comments/tweets to other Historic Preservation members.

Meeting Agenda

- Agenda must be posted 24 hours in advance or no meeting.
- Must include:
 - Date, Time, and Place.
 - Specific matters to be discussed, decided or considered or indicate where a detailed agenda can be obtained.

Can the Board Discuss Matters Not on the Agenda?

- No, can only discuss or take action on items adequately described on the agenda and all discussions on the agenda item must be “reasonably” related to it.

Items From Citizens Present

- Open meeting law does not permit members to discuss matters raised during “Items from Citizens Present.”

Violations

- ACTIONS taken by the Board are NULL and VOID.



Attorney General or County Attorney may investigate.

- Potential Penalties
- \$500 civil penalty each violation.
- REMOVAL of a board member if the court makes a finding of intent.
- Assess the board member with ALL COSTS awarded to the plaintiff.
- MAY NOT spend public monies for legal counsel.

Part II.

CONFLICT OF INTEREST

Conflict of Interest Law

Arizona Revised Statutes

Title 38, Chapter 3, Art. 8

A.R.S. § 38–503

Any public officer who has, or whose relative has, a substantial interest in an issue before the Board must declare a conflict and refrain from participating in any manner in such decision.

A.R.S. § 38–502

“Substantial interest” means any non–speculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

Who Does it Apply to?

- You.
- Your children, parents, grandchildren, grandparents, siblings(whole or half) and their spouses.
- Your spouse and your spouse's parent, siblings and children.

Substantial vs. Remote Interest

- A substantial interest is any pecuniary (financial) or proprietary (ownership) interest in the issue (direct or indirect).
- A general feeling of sympathy or bias does not create a conflict.
- Remote Interest
 - Certain economic interests are so remote they do not impermissibly influence a person's decisions or actions.
 - Listed in A.R.S. § 38-502.

Do I have a Conflict of Interest?

Do I have a financial or ownership interest?

No

You have a pecuniary or proprietary interest when you stand to *gain* or *lose* something from the decision.

Yes

No Conflict

Remote

If it is an issue that will come before the Board, is my Interest Remote or Substantial?

Substantial

CONFLICT!

Practice Tip:
Avoid the Appearance of Impropriety

Questions to Ask Yourself

- Could the decision affect either positively or negatively an interest of my family or myself?
- Is that interest pecuniary or proprietary?
- Is the interest something that is defined as remote under the statute?

Steps to Take if You Have a Substantial Interest

- ▶ Do not take part in the discussion or action—withdraw from participation.
- ▶ Make interest known in public records by explaining on the record that you are withdrawing due to a potential conflict.
- ▶ Complete a Public Officer Disclosure form available in the City Clerk's Office.

Potential Penalties for Violation of Conflict of Interest Law

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- CIVIL SUIT to enforce the law.
- Court may award reasonable attorney's fees.
- Class VI Felony for INTENTIONALLY or KNOWINGLY violating the law.
- Class I Misdemeanor for RECKLESSLY or NEGLIGENTLY violating the law.
- Person found guilty might be required to FORFEIT their public office.

Part III.

HISTORIC PRESERVATION PROCEDURES AND BYLAWS

Limits of Authority

- ▶ Limits of Authority. Board members have powers only in official meetings of the Board, except a Board member may perform specific official duty(s) on behalf of the Board outside an official Board meeting if directed for a specific purpose by an action of the Board. A Board member may not make an official statement on behalf of the Board unless directed to do so by a majority vote of the Board.

Quorum and Decisions

- ▶ A quorum shall consist of four (4) members of the Board. If there is a quorum, the business of the Board shall be transacted by a majority of the members present and eligible to vote. As an example, if five (5) member are present and eligible to vote, the business of the Board shall be transacted by a vote of three (3) members. A member who is disqualified from voting due to a conflict of interest shall not be counted as present for the purposes of this section.

Special Called Meetings

- ▶ A special meeting may be held by the Board at the request of the Chair or a majority of the Board members and such requests shall be submitted to the staff liaison. A special meeting may also be scheduled if a majority of the Board members approve the special meeting at one of their regularly scheduled meetings. The Board members shall be given at least forty-eight (48) hours' notice of the meeting and the staff liaison shall receive forty-eight hours' notice to schedule the meeting and shall follow all state notice requirements.

Agenda Items

- ▶ The Staff Liaison will place items on the agenda as directed by the Chair or by the written request of three (3) members of the Board. If a Board member, property owner, organization or other interested citizen would like an item placed on the next meeting's agenda, they should make a request at a Board meeting that an item be placed on a future Board meeting for consideration or notify the Chair at least ten (10) days preceding the Board meeting.

Hearing of Applications and Appeals

Historic Preservation Meeting
November 6, 2022
Attachment 1
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- ▶ Chair announces application – any conflicts declared
- ▶ Staff presentation and recommendation
- ▶ Applicant presentation
- ▶ Public comment period
- ▶ Applicant opportunity for rebuttal/closing statement
- ▶ Close public hearing – Motion made and seconded
- ▶ Deliberation and vote

QUESTIONS

Contact the City Attorney's Office

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