



Community Development Department

**HISTORIC PRESERVATION COMMISSION
MEETING AGENDA
May 15, 2019**

David J. Blackstead Meeting Room 3:30 p.m. City-County Office Building

Item No. Page No.

AGENDA

- 1. Welcome and Introductions**
- 2. Presentation:** News from the State Historic Preservation Office
Amy Munson, State Historical Society of ND, CLG Coordinator
- 3. Overview of the Historic Preservation Commission including Roles and Responsibilities, CLG & Ordinance,.....3**
 - a. Ordinance
 - b. Local Government Certification Agreement
- 4. Discussion on Commission Conduct and Governance**
Janelle Combs, City Attorney
- 5. Overview of Commission Terms.....14**
- 6. Discussion and Election of Commission Officers**
- 7. Discussion and Approval of Meeting Frequency, Dates, Times and Location.....15**
- 8. Review Draft Narrative for National Park Service**



OTHER BUSINESS

9. Other Business

ADJOURNMENT

10. Adjourn.

CITY OF BISMARCK

Ordinance No. 6358

| | |
|-----------------------------------|---------------------------------|
| <i>First Reading</i> | <u>December 18, 2018</u> |
| <i>Second Reading</i> | <u>January 8, 2019</u> |
| <i>Final Passage and Adoption</i> | <u>January 8, 2019</u> |
| <i>Publication Date</i> | <u>December 1 & 8, 2018</u> |

AN ORDINANCE TO CREATE AND ENACT A NEW CHAPTER TO THE CITY OF BISMARCK CODE OF ORDINANCES TO BE NUMBERED 2-12 RELATING TO THE CREATION AND POWERS OF A HISTORIC PRESERVATION COMMISSION

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. A new chapter, to be numbered 2-12, is hereby created and enacted as follows:

Chapter 2-12 Historic Preservation Commission

Section 2-12-01. Definition of terms. The following definitions represent the meanings of terms as they are used in this chapter:

Adverse Effect: Any action that may alter, directly or indirectly, any of the characteristics of any property eligible for or listed in the National Register of Historic Places that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association.

Alteration: Any change to an historic property or historic resource resulting from construction, renovation, improvement, repair, maintenance or other actions.

Appurtenance: A feature related to a parcel of land or to a property including, but not limited to a building, object, fence, sign, sidewalk, etc.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Construction: The addition or placement of any improvement onto any historic property or historic district including buildings,

structures, infrastructure, objects, sites, or appurtenances or any portion thereof.

Criteria of Significance: The quality of significance in American history, architecture, archeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, material, workmanship, feeling, and association and:

- a. That are associated with events that have made a significant contribution to the broad patterns of national, state, regional, county, or local history or prehistory; or
- b. That have significant associations with the lives of persons important in our past; or
- c. That embody the distinctive characteristics of an architectural style, type, period, or method of construction, or use of indigenous materials or craftsmanship, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. That have yielded or maybe likely to yield information important in prehistory or history.

Demolition: The complete or partial removal of buildings, structures, infrastructure, objects, sites, or appurtenances.

Designation: The identification and registration of property for protection that meet criteria established or endorsed by the State Historic Preservation Office or the Historic Preservation Commission.

Historic District: A geographically definable area, urban or rural, which contains a concentration of significant sites, buildings, structures, or objects united historically or aesthetically in concentration, linkage, or continuity by plan or physical development and which meets the criteria of significance. Districts may be contiguous or non-contiguous and may contain properties that are individually eligible for the National Register of Historic Places and/or the North Dakota State Historic Sites Registry or that are designated as eligible by virtue of their ability to contribute to the significance of the concentration.

Historic Property: A building, structure, site, object, resource or district that meets the Criteria of Significance as promulgated by the Secretary of the Interior and endorsed, accepted or adopted by the North Dakota State Historic Preservation Office.

Impact Area: The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The impact area is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Improvement: An appurtenance developed by human design including, but not limited to, buildings, structures, infrastructure, objects and manufactured units such as mobile homes, carports, and storage buildings.

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 (as amended) as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic, architectural and archeological resources. The National Register program is administered by the Historic Preservation Commission, by the State Historic Preservation Office and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed on or determined eligible for listing in the National Register.

Object: An object is distinguishable from buildings and structures by being a construction that is primarily artistic in nature or relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Professional Qualifications: The professional qualifications necessary to comply with this section shall be those defined by the Secretary of the Interior's Professional Qualification Standards.

Protection: The Historic Preservation Commission review process for proposed conservation, demolition, alteration, improvement, relocation or other action that may affect a historic property or a historic district.

Relocation: Any change in the location of a building, object, or structure in its present setting or to another setting.

Resource: Sites, buildings, structures and objects and all significant features within historic districts, together with the appurtenances thereon and improvements thereto, if any. The term resource includes, but is not limited to, separate districts, buildings, structures, sites, objects, landscape features, and related groups thereof.

Site: A location designated by the Historic Preservation Commission or other legal authority, that is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historic or archeological value regardless of the value of any existing buildings, structures, or objects.

State Historic Preservation Office (NDSHPO): The staff and facilities appointed and assigned by the State Historic Preservation Officer (SHPO) to administer and manage the North Dakota State Historic Preservation Program under the guidance of the SHPO.

State Historic Preservation Officer (SHPO): The person designated by the Governor to be the primary administrator and manager of the State Historic Preservation Program as sponsored by the National Park Service.

Structure: A constructed work of human origination created for purposes other than providing human shelter.

Section 2-12-02. Purpose and Declaration of Public Policy.

1. The purpose of this ordinance is to establish a program for promoting the cultural, educational, economic and general welfare of the community through the identification, designation, promotion, preservation, and protection of historic properties within the City of Bismarck. The program shall:
 - a. Promote cultural stability and safeguard the heritage of the City;
 - b. Stabilize and improve property values;
 - c. Preserve the City's economic base through stimulation of tourism;
 - d. Promote the knowledge and understanding of the City's heritage, its historic properties and the past endeavors of its residents;
 - e. Provide a mechanism to review and comment on proposed construction, demolitions, alterations, and relocations within historic districts and with regard to historic properties both within and outside of historic districts; and
 - f. Aim to foster civic pride in the accomplishments of the past; and promote the appropriate use of historic properties for education, pleasure and welfare of the people of Bismarck.

2. It is intended that the Historic Preservation Commission will cooperate with and assist various local, state and federal entities and agencies in the enforcement of local, state and federal legislation to identify, evaluate, designate, and safeguard properties significant in the pre-history, history, architecture, engineering and culture of the community, state and nation.
3. It is further declared that the purposes of this chapter are to:
 - a. Retain and enhance historic properties within the City of Bismarck while allowing their adaption for current use by assuring that alterations are compatible with their historic character; and
 - b. Provide guidance to encourage the application of zoning ordinances, building permits, land subdivisions, construction, alterations, relocations, and demolitions adjacent to historic properties or within historic districts in a manner that is compatible with historic preservation principles and practices.

Section 2-12-03. Creation of Historic Preservation Commission. There is hereby created and established a body to be known as the Historic Preservation Commission, which shall have powers and duties as hereinafter provided.

Section 2-12-04. Membership - Terms - Filling Vacancies - Qualifications. The Historic Preservation Commission shall consist of seven (7) members who shall be residents of the City of Bismarck who will serve without pay.

1. Appointment. Members shall be subject to confirmation by a majority of the Board of City Commissioners and approval of the North Dakota State Historic Preservation Office. One of the voting Historic Preservation Commission members shall be a City Commissioner who shall serve a respective term for which they have been elected.
2. Terms. Of the initial appointees, three shall serve for three years, two shall serve for two years and two shall serve for one year. Thereafter, all terms shall run for three years.
3. Qualifications. At least a majority of the membership shall be comprised of persons from the disciplines of architecture, history, architectural history, planning, archeology, or other historic preservation related disciplines, such as American studies, American civilization, cultural geography or cultural

anthropology, to the extent that such professionals are available in the community.

- a. The requirement of this Subsection 3 may be waived, with the agreement of the North Dakota State Historic Preservation Office, if individuals having appropriate professional qualifications are not available for appointment, and reasonable efforts, as defined by this section, have been made to fill the positions.

Section 2-12-05. Historic Preservation Commission Chair - Meetings - Records to be kept.

1. The Historic Preservation Commission shall elect its Chair and Vice Chair for a term of one (1) year from among its members and shall hold at least four (4) meetings per year.
2. A majority of the members of the Historic Preservation Commission attending a required meeting shall constitute a quorum.
3. The Historic Preservation Commission shall keep a record of its resolutions, findings and determinations, and all records shall be public records unless otherwise provided by North Dakota law. Minutes of all meetings shall be maintained and kept with the City and shall be provided to the State Historical Society of North Dakota within sixty (60) days following each Historic Preservation Commission meeting, or at such times as may be directed.
4. All meetings shall be open to the public; shall be held in a facility accessible to people with disabilities; and shall be upon such notice as required by law.

Section 2-12-06. Historic Preservation Commission Staffing. Staff from the City's Community Development Department shall advise the Historic Preservation Commission on matters related to the Historic Preservation Commission and historic preservation; prepare all documents for presentation to the Historic Preservation Commission; convey any recommendation of the Historic Preservation Commission to the Board of City Commissioners or the appropriate body; and otherwise assist the Historic Preservation Commission in the exercise of their duties, as required.

Section 02-12-07. Funding. The Board of City Commissioners may annually appropriate funds, within budget limitations, for the operation of the Historic Preservation Commission. The Historic Preservation Commission, in addition to the appropriations made by the City of Bismarck, shall

have the right to receive, hold and spend funds which it may legally receive from any and every source, both in and out of the state of North Dakota, for the purpose of carrying out the provisions of this article.

Section 2-12-08. Powers and Duties. Subject to the restrictions and limitations of this ordinance, the Historic Preservation Commission is hereby empowered to represent the City of Bismarck and to act in its interest. The following powers and duties are specifically conferred upon the Historic Preservation Commission:

1. To make rules governing its own operation consistent with this chapter.
2. To prepare, or have prepared on its behalf, and to amend a comprehensive inventory of historically significant properties within the City.
3. To make recommendations to the Board of City Commissioners for any additional ordinances or administrative procedures required to implement the stated purpose and intent of this chapter.
4. To develop and participate in educational programs to increase public awareness of the value of historic preservation and of the preservation program established by this chapter.
5. To make recommendations to the Board of City Commissioners:
 - a. Regarding application for and acceptance and utilization of grants from federal, state and local agencies or other entities, private groups, and individuals.
 - b. For budgetary appropriations to promote and advance the preservation of historic properties in the City and to otherwise implement the stated purpose and intent of this chapter.
 - c. To make recommendations to the Board of City Commissioners concerning the acquisition of fee simple and less than fee simple rights in properties within the City for purposes of historic preservation.
6. To prepare and submit, in accordance with all applicable federal laws and regulations, nominations to the National Register of Historic Places for properties deemed by the Historic Preservation Commission to be significant in local, state or national history.
7. To evaluate and comment upon plans, proposals, permits and applications which are developed or required by other public

agencies – including those developed by other commissions, offices, and departments of the City – which may, in the opinion of the Historic Preservation Commission, either directly or indirectly affect any property or properties deemed by the Historic Preservation Commission to have historic value.

8. To review and comment upon all certifications of significance and certifications of rehabilitation as requested by the North Dakota State Historic Preservation Office.
9. To accept such gifts or grants as may be appropriate for fulfilling the purposes of this Historic Preservation Commission.
10. To identify and recommend, for historic preservation purposes, such organization or organizations to which fee titles or lesser interest in property should be granted.
11. To submit and file such information, findings and resolutions deemed necessary and appropriate by the Historic Preservation Commission with the State Historical Society of North Dakota.
12. To review and comment to all local, state or federal agencies or entities deemed necessary with regard to government funded, assisted or licensed projects with emphasis as to the presence of historically significant properties within the project's impact area, the extent of the project's effect on historically significant properties and proposed means of mitigating any adverse effect.
13. Perform any other functions which may be assigned or delegated to it by the Board of City Commissioners.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

LOCAL GOVERNMENT CERTIFICATION AGREEMENT
 BETWEEN
 THE STATE HISTORICAL SOCIETY OF NORTH DAKOTA
 And
 CITY OF BISMARCK

Pursuant to the provisions of the National Historic Preservation Act, as amended, to applicable federal regulations (36 CFR 61), and to North Dakota's Certified Local Government Certification Procedures Manual, the City of Bismarck agrees to:

- (1) Enforce appropriate Federal, State, and local legislation for the designation and protection of prehistoric and historic properties.
- (2) Maintain an adequate and qualified historic preservation review commission comprised of professional and lay members as outlined in North Dakota's Certified Local Government Certification Procedures Manual. All appointees to the Commission must be approved, in advance, by the State Historical Society of North Dakota.
- (3) Maintain a system for the survey and inventory of archeological and historical properties according to the Secretary of Interior's Standards for Archeology and Historic Preservation, guidelines of the National Register of Historic Places, the North Dakota's Certified Local Government Certification Procedures Manual, and the standards for surveys and inventories established by the Historic Preservation Division of the State Historical Society of North Dakota. These requirements shall also apply to preparation of historical contexts, historical planning, and, as appropriate, all other products produced by the CLG. Copies of all site forms generated by the CLG must be submitted to the State Historical Society of North Dakota for review and inclusion in the State's site form collection.
- (4) Review the National Register of Historic Places nominations for properties located within the local government's jurisdiction following the review guidelines referenced in the North Dakota's Certified Local Government Certification Procedures Manual.
- (5) Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register. The CLG must publish a meeting notice which includes the meeting agenda in a local newspaper at least ten (10) calendar days prior to the meeting. The meetings must be held in a facility that is accessible to the disabled.
- (6) Abide by the State's open meeting and open records requirements.
- (7) Adhere to all Federal requirements for the Certified Local Government Program.
- (8) Adhere to requirements outlined or referenced in the North Dakota's Certified Local Government Certification Procedures Manual, a guidance document issued by the State Historical Society of North Dakota.

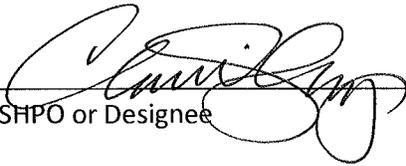
- (9) Cooperate with, and assist, the State Historical Society of North Dakota comply with State statutes and regulations relating to historic preservation, including North Dakota Century Code chapters: 55-02-07, 55-02-07.1, 55-03-01.1, 55-03-02, 55-03-06, 55-10-07, 55-10-02(4), 55-10-08, and 55-10-09.

The State Historical Society of North Dakota will provide guidance and technical assistance to the CLG upon request.

Upon its designation as a Certified Local Government, the City of Bismarck shall be eligible for all rights and privileges of a Certified Local Government (CLG) specified in the National Historic Preservation Act, Federal procedures, and the procedures of the State of North Dakota. These rights include eligibility to apply for available CLG grant funds in competition only with other certified local governments.

STATE:

LOCAL GOVERNMENT:



SHPO or Designee



Chief Elected Local Officer

Claudia Berg, Director
Typed Name and Title

Steve Bakken, President Board City Commission
Typed Name and Title

4.17.19
Date

4-9-19
Date

| Bismarck Historic Preservation Commission | | | |
|--|-----------------------|----------------------------|--------------------------------|
| Member | Date Appointed | Initial Term Length | Initial Term Expiration |
| Steve Bakken* | 3/27/2019 | Elected term | June 2022 |
| Calvin Grinnell | 3/27/2019 | 3 | March 2022 |
| Blake Dinkins | 3/27/2019 | 1 | March 2020 |
| Tory Jackson | 3/27/2019 | 2 | March 2021 |
| Amy Sakariassen | 3/27/2019 | 3 | March 2022 |
| Beth Nodland | 3/27/2019 | 1 | March 2020 |
| Walt Bailey | 3/27/2019 | 2 | March 2021 |
| * City Commission Member | | | |
| After initial term, term limits are 3 years | | | |



Community Development Department

MEMORANDUM

Regular Meeting Dates, Times and Location

TO: Historic Preservation Commission

FROM: Will Hutchings, Planner

DATE: May 10, 2019

Staff is requesting your direction on selecting a regular meeting frequency, date, time and location for future Historic Preservation Commission meetings.

Setting a regular scheduled meeting date and time will provide predictability for staff, Commissioners, and the public. For most of the City of Bismarck boards, meeting dates follow a set date and time based on the day of week and week of the month.

The following are the standard meeting schedules for other City of Bismarck Commissions/Boards.

City of Bismarck

- Board of City Commissioners 2nd and 4th Tuesday at 5:15 pm
- Planning and Zoning Commission 4th Wednesday at 5:00 pm
- Board of Adjustment 1st Thursday at 5:00 pm
- Renaissance Zone Authority 2nd Thursday at 4:00 pm
- Forestry Advisory Board 3rd Tuesday (March, June, September & December) at 12:15 pm

In addition to the other City of Bismarck Commissions/Boards, several other meetings occur across our region that utilize the Tom Baker Meeting Room in the basement of the City/County Building and may or may not be televised on Dakota Media Access. A summary of those dates and times are attached to this memorandum.



Section 2-12-05 (1) of the City Code of Ordinances specifies that at a minimum, the Bismarck Historic Preservation Commission shall hold at least four meetings per year. Staff also reviewed how other North Dakota Historic Preservation Commissions schedule their meetings. The City of Grand Forks, Dickinson and Fargo all have a regular scheduled meeting every month but may cancel meetings, as needed, for lack of agenda items. In addition, most other Historic Preservation Commissions across the state note that during the first couple of years they met more regularly as they worked to establish their commissions' bylaws, program priorities and projects.

Consideration for meeting date and time should be given for other City Commissions/Bboard which may create overlap with the actions/requests of this Commission such as the City Commission, Board of Adjustment, Planning and Zoning Commission and the Renaissance Zone Authority. It may be advantageous to leave time between these meetings so that any applicable recommendations from one meeting to the other can be carried over without adding substantive additional time delays.

For sake of discussion, the following are some options for your consideration.

1st, 2nd, 3rd or 4th Monday at 4:00, 5:00, 5:15 or 5:30 PM

1st or 3rd Tuesday at 4:00, 5:00, 5:15 or 5:30 PM

1st or 3rd Wednesday at 4:00, 5:00, 5:15 or 5:30 PM

Other options may include mornings or lunch hours.

Staff recommends that, going forward, regular scheduled meetings be held in the Tom Baker Meeting Room in the basement of the City/County Office Building. This meeting room is ADA accessible, can seat all Historic Preservation Commissioners at tables at the front of the room, has AV technology to view exhibits and other meeting-relevant material and has up to a 150-seat capacity for the public. In addition, this room is equipped with Government Access TV recording equipment by Dakota Media Access that would allow for meetings to be recorded and aired on Channel 2/702 if desired in the future.

Government Meeting Schedule

| Meeting | Day(s) | Time |
|---------------------------------|---|-------------|
| Bismarck Board of Adjustment | 1 st Thursday | 5:00 pm |
| Bismarck City Commission | 2 nd & 4 th Tuesday | 5:15 pm |
| Bismarck Park District | 3 rd Thursday | 5:15 pm |
| Bismarck Planning & Zoning | 4 th Wednesday | 5:00 pm |
| Bismarck School Board | 2 nd & 4 th Monday | 5:15 pm |
| Burleigh County Commission | 1 st & 3 rd Monday | 5:00 pm |
| Burleigh County Planning | 2 nd Wednesday | 5:15 pm |
| Burleigh County Social Services | 4 th Thursday | 3:30 pm |
| Burleigh County Water Resource | 2 nd Wednesday | 8:00 am |
| Mandan City Commission | 1 st & 3 rd Tuesday | 5:30 pm |
| Mandan Park District | 2 nd Monday | 5:30 pm |
| Mandan Planning & Zoning | 4 th Monday | 5:15 pm |
| Mandan School Board | 1 st & 3 rd Monday | 5:30 pm |
| MPO Policy Board | 3 rd Tuesday | 1:00 pm |

Bismarck/Burleigh Location

Tom Baker Meeting Room
 City/County Building
 221 N. 5th Street
 Bismarck, ND

Mandan/Morton Location

Ed "Bosh" Froehlich Meeting Room
 Mandan City Hall
 205 2nd Ave NW
 Mandan, ND