



Historic Resources Board Staff Report

From: Planning and Development Services Director
Lead Department: Planning and Development Services

Meeting Date: March 28, 2024
Report #: 2403-2788

TITLE

Approval of Historic Resources Board Draft Minutes of January 25, 2024

RECOMMENDATION

Staff recommends the Historic Resources Board (HRB) adopt the attached meeting minutes.

BACKGROUND

Attached are minutes for the following meeting(s):

- January 25, 2024

ATTACHMENTS

Attachment A: HRB 1.25 Minutes

AUTHOR/TITLE:

Amy French, Chief Planning Official



HISTORIC RESOURCES BOARD MEETING

DRAFT MINUTES, January 25, 2024

Council Chamber & Virtual Zoom
8:30 A.M.

Call to Order/Roll Call

Present: Chair Alisa Eagleston-Cieslewicz; Vice Chair Samantha Rohman; Board Members Gogo Heinrich, Michael Makinen, Margaret Wimmer, Christian Pease and Caroline Willis

Absent:

Agenda Changes, Additions and Deletions

Public Comment

City Official Reports

[Meeting in progress but no audio until 12:15]

1. Historic Resources Board Schedule of Meetings and Assignments

Chief Planning Official Amy French announced dates for upcoming HRB meetings. Items will include the annual CLG report to the Office of Historic Preservation and the plan for the upcoming fiscal year. The HRB could discuss having one meeting each month with the entire Board and the other date reserved for opportunities for subcommittees to meet.

Action Items

2. Historic Resources Board (HRB) Recommendation to Council on the Nomination of 2601 East Bayshore Road, Consideration of Reasons for Local Inventory Listing Objections, and Recommendation to City Council Regarding Properties Found Eligible for Local Inventory Listing via the Historic Reconnaissance Survey for Which Property Owner objections were received.

Ms. French noted this was the day to discuss properties with objections from owners to listing on the local inventory, or objections to properties appearing on a list of eligible properties even if the HRB does not forward them to the Council for listing. Another goal was to provide a recommendation to the City Council regarding nomination of the City's property at 2601 East Bayshore Road. This was postponed from the December 14th HRB hearing. Ms. French commented on the discussion at the January 11th meeting, regarding the HRB's ability to affirm eligibility of properties for the local inventory based on criteria set forth by the consultant and noted that discussion could be continued with regard to what it means to be eligible for a local inventory. The Board also needed to formally vote to decline to advance properties with objections to the City Council for placement on the inventory. Ms. French presented statistics regarding the properties involved in the current process, including that objections were received from owners on approximately 50 percent of the 163 properties involved. Approximately 60 percent or more of the objection properties are zoned single-family residential. Inquiries were received regarding establishment of historic districts, but this was not within the scope of the current process.

Ms. French presented the property at 2601 East Bayshore Road, found to be eligible as a Category 1 local inventory resource under criteria 1, 4 and 5. Three structures at the site were demolished in 2017 and

another in 2019, yet the remaining building was found to still have integrity and still be eligible for the National Register. There were questions regarding the future use of the building. With the PF zoning and design overlay district, any physical changes to the property would need to go through the site design process. The City could potentially lease the property under this zoning. She noted that there is concern regarding hazardous materials related to the property. The Baylands Conservation Plan is still in the CEQA process, but there has been some controversy around preserving or demolishing the building.

Barrett Reiter, consultant, Page and Turnbull, summarized the reason the building is categorized as a Category 1. The building is the last remnant of the Federal Telegraph Company at Marsh Station and is significant for its remarkable contributions to the field of radio communications. The company was founded in Palo Alto in 1909 and was a pioneer in radio transmission and long distance wave transmission which has impacted the field of radio sciences and communications. It is an internationally important history that has impacted world wars, communication and knitting the country together, and it started in Palo Alto, making it an exceptional building with an exceptional history. It is eligible for the National Register. The question is whether listing on the local inventory helps create opportunities for its reuse, so that if it is demolished in the future there is some plan to do interpretive work preserving and highlighting the history conveyed on the site so that the public could understand the significance of the site.

Chair Eagleston-Cieslewicz invited public comment on 2601 East Bayshore. There was none.

Chair Eagleston-Cieslewicz invited Board discussion on the item.

Vice Chair Rohman asked if the structure and the surrounding land is currently owned by the City.

Ms. French responded that it is, and that it is also subject to some regional oversight due to its status as a wetlands.

Board Member Heinrich said her research on the building revealed a report by AECOM given to the City. This report stated that the building does not retain sufficient historic integrity of design, setting, materials, workmanship, feeling or association and no longer conveys its historic significance. It is recommended to not be eligible for listing. Board Member Heinrich said she agreed with the report and did not feel the building should be retained, citing hazardous materials and incongruence with the 123 acres of wetlands surrounding it.

Vice Chair Rohman asked who AECOM is.

Board Member Heinrich said they are a consultant hired by the City. They developed the concept for the former ITT property, Emily Renzel Wetlands.

Vice Chair Rohman agreed that the building was problematic. She also agreed with restoration of the wetlands. However, she felt the HRB's purview was to decide whether the site/structure should be recognized as historic. She agreed that even if the building is demolished, there would be an opportunity for interpretation on the site, including how the wetlands were originally used as undesirable land, but in 2024 are recognized as an important ecosystem. She felt this is a learning opportunity for people, even if the structure is demolished. She felt the building should go on the local inventory as a means of recording the site's important history.

Chair Eagleston-Cieslewicz agreed and said the Board makes recommendations to Council about listing, but land use is not their purview. Council can address that as part of their decision-making process. The Board should look at the particulars of the site and the structure for listing.

Board Member Heinrich wondered why they would list a building on the inventory if it was demolished.

Board Member Willis said she looks at the inventory as a record of what happened in Palo Alto. She hoped that the building might survive in some sense, similar to the Sea Scouts building. She said it is important to maintain their history in some form where people can have access to it. The inventory is the best shot at doing that.

Vice Chair Rohman agreed that it is part of the evolving cultural landscape of Palo Alto, to illustrate that as far back as the turn of the century there were huge innovations happening in Palo Alto. Even if the building is demolished the story remains of Palo Alto's importance in technology in the early 1900s. There were

different ways of thinking of ecological resources then, and those ways of thinking have changed, and this is an important story to tell.

Board Member Wimmer felt it would be interesting to see what sort of adaptive use the City might come up with, or whether they would lease the land to someone who might develop it. If, in time, there is a proposal for use of the property, it could be determined whether the building fits into that or not. Until there is a proposal for the site, she would advocate for protecting it in its current state since there is no reason to remove it currently. She was also in favor of historic preservation of the site in general, whether the building is there in the future or not, as the site of the original Federal Telegraph Company. It could be simply a plaque or perhaps the City could rename the parcel as such, to help preserve the history.

Board Member Heinrich felt in any case the soil and hazmat testing should be done on the building.

Chair Eagleston-Cieslewicz said even a listed property could be demolished if it is hazardous, or under other circumstances.

Board Member Makinen said, after reading its history of it, the building does have significance, and he felt there are areas that should be taken under consideration. He was not in favor of demolishing the building at the present time.

Board Member Heinrich thought the hazmat study should be done now to determine if there are hazardous materials leaching into the groundwater.

Board Member Willis asked Board Member Heinrich if she was advising the City that they should do testing because they own the property.

Board Member Heinrich said this was correct.

Board Member Willis hoped this would be noted by Ms. French.

Ms. French noted that references to hazmat were more about the site and less about the building. There is probably a process for directing Public Works to do some sort of testing and it is not in her purview, but she would mention it to Public Works.

Board Member Wimmer said when someone comes forward with a proposal for the site, whether the City, or a lessee, at that time an Environmental Impact Report and Historic Evaluation Report would be required on an official level.

Ms. French agreed and said there has been some discussion within the Parks and Recreation Commission regarding the site. It is a broader issue than the HRB's opinion on the matter. It extends to other boards and commissions, and to Council.

Board Member Wimmer thought she recalled a discussion about the site being a Boy Scout facility.

Board Member Willis referred back to the Sea Scout building, which has been nicely resurrected.

Council Member Lydia Kou asked if the HRB receives communication when other boards or commissions have had discussions on the site.

Ms. French said that the discussion within Parks and Recreation Commission occurred in the past. She has not researched minutes and reports from years past, but she has reached out to Director O'Kane to inform her of this issue coming forward at the HRB. She has also spoken to CSD employees, and there was no mention that it is on the docket for Parks and Recreation Commission.

Council Member Kou said it would be important for boards to know what other boards are discussing. Some sort of summary would help keep all of the boards informed about discussions.

Ms. French supported this idea.

Board Member Wimmer mentioned Peninsula Open Space Trust and said they take on properties such as this. She thought they would have a process for qualifying them or a protocol and guidelines that they follow for such a property.

Ms. French added there are often grants available to help cities with properties of significance. Since Palo Alto is a CLG city and they send in a report each year to the Office of Historic Preservation, there are grants

they can apply for to refurbish historic properties. There may be grants for cleaning up hazardous materials that the City could look into.

MOTION

Motion by Chair Eagleston-Cieslewicz to recommend 2601 East Bayshore Road to City Council for listing on the local inventory as a Category 1 structure. Seconded by Board Member Pease, the motion carried (6-1).

Ms. French presented 82 objections properties, of which 51 are residentially zoned. Staff had sent certified letters to property owners prior to the December 14th meeting and January 11th meeting. Certified letters were not sent prior to the November 9th meeting. However, certified letters were sent to those properties recently to alert them to the current meeting. Notice cards were sent to all property owners on the objections list that staff has been tracking. a

Chair Eagleston-Cieslewicz invited public comment.

Alan Cooper, 270 Kellogg Avenue, owner of a potentially eligible Category 1 property, objected to his property being listed on the Palo Alto register because there needs to be more incentives that are fair and equitable for both the City and the property owner. Earlier in the meeting he had spoken about six possible new incentives. He said he loves his home and has lived in it for 40 years. He believed it should be recognized as part of Palo Alto's history and should be on the register. He looked forward to the HRB promoting new, mutually equitable, incentives and the City Council approving them. At that time he will remove his objection.

Chair Eagleston-Cieslewicz mentioned that there is a community meeting scheduled on February 23rd and the Board would love to hear from homeowners interested in discussing incentives.

Board Member Willis commented that there are criteria for appointing HRB members that have an economic interest in historic houses, and at the moment there are several Board members that do have economic interest and historic houses.

Don Jackson cited points from a revised letter from 31 realtors which said that the potential impact of a property being listed on the City's historic inventory may be a loss up to 20 percent of its market value. He said that the HRB has provided no evidence or data for the belief that a historic designation will increase or have no impact on its market value. The HRB member bios on the website do not indicate to him that the Board members possess professional experience with local real estate transactions. He agreed with the realtors that there should not be an "eligible" list maintained by the City or the HRB, and if such a list continues to exist, the property owner should be provided the option to object to inclusion on that list. He did not ask to be on the list and being forced to be on it has subjected him to uncertainty and stress since the process began. The realtors point out a conflict of interest created by the City using the same historic consultant, Page and Turnbull, both for assessing the eligibility for historic properties and then requiring homeowners to pay the same consultant to review and approve potential improvements or changes to their property. He feels this is a racquet and that this conflict of interest merits investigation and review by the California Fair Political Practices Commission. Mr. Jackson said that owners of historic properties should be supported and nurtured by the HRB, but their actions have resulted in a majority of them strenuously objecting both to the current process and their property's historic designation. He asked why the Board waited until the January 11th meeting to convey that it would not forward or recommend objecting properties to Council instead of doing so from the beginning. He felt the HRB should have focused more on developing significant and material financial and zoning incentives for historic properties.

Michael Onken spoke regarding 132 Hamilton Avenue, which is owned by his family. He wanted to file his objection, stating that this has been an office building for 75 years. It had a prior use going back to the 20's, but if someone walked by today they would never know what that use was, as there is nothing remaining having anything to do with the original use, and there is no significance.

Dan Marshall thanked the Board for the assurance of not being placed on the historic list. He purchased his home in 2007 and began remodeling it shortly after. They immediately ran into problems with the Planning Department. They had no idea why. They planned to retain the beauty of the house, but began to understand that there was some other motive affecting their ability to upgrade their home. He did not remember a disclosure of "eligible" when they bought the house. At the time a lot of work was needed.

They came understood that because house was eligible for historic designation there were requirements to do certain things or not do certain things. He asked at one point if he needed a lawyer because it was unclear where his rights ended and the City's rights began. There were no rules or definitions. In the end they compromised. He said the problem with the "eligible" designation is that nobody really knows what it means, other than it's a thorn in the side of property owners. They would like eliminate that "eligible" designation. He said if they were put on the historic inventory it would substantially reduce the value of his house.

Kusum Pandey, 1965 Cowper, reiterated the belief that there should be no "eligible" status on the Palo Alto inventory list maintained by the City. She protested the current opt-out system. While she appreciated the Planning staff sending out notices for the current meeting, for the November meeting they did not receive any notice until a week afterward. She worried about homeowners being forced to opt-out and by their absence, having their property listed without their knowledge.

Darlene Yaplee disagreed with affirming 845 Waverly eligible for Palo Alto inventory and asked that they not conflate this with the National Historical eligible list. She said the alleged significance is architecture – a rare surviving example of an early middle class residential building. Only ten surveyed properties evaluated class, and very property except theirs was associated with a style of architecture. The survey asserts style and class were among the predominant forms of residences that house middle and working class people. Another surveyed property looked just like theirs but was not identified as middle class and is eligible because of its style. Their evaluation – a house whose principal significance has little to do with its style or decoration. Without style, how is their home historical or middle class. If class is the criteria, then it should be standardized for every historical home to determine rarity and consistency. She said their middle class home is not rare. Today 387 homes are on the Palo Alto inventory, of which 25 are 1,800 square feet or below, a proxy for middle class, which is not rare. This does not include the 193 Professorville districts, which has middle class houses as well. Therefore, most historical and non-historical properties are middle class. The survey states that most residents are middle and working class. She asked if historical criteria should be someone's subjective view of a class defined by income, education and social status? The 1979 survey suggested a historical district originally built for a lower socio-economic group, although contiguous to Professorville, perhaps a residential district for domestic labor. She didn't think an owner would want their property characterized as lower socio-economic, a sure way to bring the property value down. Class criteria is not a good look for Palo Alto. The 1979 survey co-funded by the State office, researched and observed each property for significance bordering Page Mill, El Camino, the Creek, plus College Terrace. Her property and others were part of this survey, following all state regulations. They were not identified as historical. She asked why the same properties are subsequently found to be historical using different consultants. She said they reject finding their home as Palo Alto inventory eligible. Middle class is an invalid criteria, subjective and inconsistent. She said it is not rare. There are at 25 to 352 middle class homes already on the Palo Alto inventory.

Mala Narasimharajan said she and her husband own the single-family residence at 546 Washinton Avenue. She said they are strongly in favor of removing the "eligible for historic status" label and do not support an eligible list to be created or used. If such a label is placed on a home and the home is placed on a list, it directly decreases home values, possibly more than 20 percent. They feel it is wrong for homeowners to pay for subjective designations made by external parties with varying misplaced incentives. Any property labeled "eligible for historic status" burdens homeowners with responsibility and expense to prove otherwise. It is a presumptive approach to historic status and not only burdensome for property owners but also disrupts the clarity and predictability that should be inherent in a real estate process. There appears to be a strong conflict of interest to have the same historic consultants perform the survey to determine if a property is historic and then also be hired by the City and residents to consult on historic and preservation of the properties.

John Bard, owner of 947 Waverly, commented on the process. He felt the Board has been willing to listen to the public and to improve the process along the way, but it is a little late for people starting at the beginning and going through the evolving process. He said going forward, the Board needs to focus on a more clear and consistent approach to how properties get identified for eligibility and then get moved to the list going forward. He said people are concerned about what eligibility means. The Board has not codified the ability of homeowners to object and to make sure that they don't get put on the inventory if

they disagree with the designation for their property. If that were clearer, having an eligibility list would provide an opportunity to reconsider those properties and to have homeowners reconsider participation in the inventory if the right incentives were offered. He felt the incentives are not significant enough to overcome potential impact on property value, and it is unfair to force homeowners to accept that reduction in property value if they do not agree. He suggested clarifying that homeowners can object and prevent their properties from being put on the inventory and being subject to the restrictions which add cost to any remodeling or potential devaluing of their property. This would make homeowners more comfortable with participating in the process, being listed as eligible and potentially agreeing to protect their homes by having them put on the inventory. He said the process is unclear regarding the restrictions on changes to properties. Once that process is clear homeowners may be more willing, or potentially less willing, to participate based on how complicated it might be to make changes to their properties.

Marion Odell, 482 Everett Avenue, said they purchased the home in 1987 and did a remodel in 2006. The front of the house does not look like it did when it was first built. An additional floor was added. She said they have chosen to not be on the historic register. Their house was on the first list. She immediately sent a letter stating that they did not want to be on the registry. She did not see their house on the list, but she did get a letter back confirming the letter she sent. She wanted to make clear that they do not want their house to be on the registry.

Ms. French assured Ms. Odell that their objection was on the record.

Charlotte Lowell said there could be a form that prevents a prima facie case but then other information comes in. She said it is clear that Dames and Moore knows how to describe a builder who goes beyond ordinary building. She said her house is Spanish Colonial Revival. If there are 15 to 20 houses that are Spanish Colonial Revival, how does one of them get selected? She thought a better way would be to offer incentives for those who would like to opt in. She asked the Board to look and compare the houses by E. J. Smalling because without looking at the others, it seems arbitrary to say that one house should be selected as a fine example. She asked that they look at whether or not it should be Category 2. She said she likes her house, although it's not perfectly crafted, but she wants to be able to repair her house if a tree falls on it. She thought that a blanket approval of everything on the list as eligible isn't a good process when other objections come.

Daniel Robertson, 643 College Avenue, said he is in the College Terrace District. He lives in a house built around 1914. His great-grandfather purchased the house in 1956. He is a fourth generation Palo Alto resident and seen many changes. Many come to Palo Alto because of the schools, the atmosphere, the environment. His neighborhood is old, and many houses that are there have been either demolished or taken down by Stanford. He described his house as old and ready to fall down. His grandfather purchased the property from the original owner. Many houses in neighborhood were built around 1894. His barn was built around the 1890's and is ready to fall down. He said he can't do anything with his property without having to go through the Planning Department. Many residents in his neighborhood are already having trouble doing additions because the Palo Alto Planning Department has made it difficult. They don't want to see bigger houses being put in, yet a block from him there was to be a 60-unit apartment complex. He felt they should have a choice of whether they want their houses to be on the list or not due to financial and personal belief. To rebuild in Palo Alto is very expensive so that must be taken into consideration. Individuals should have a choice.

Martin Bernstein stated that many regulations are based on cultural value. For example, San Francisco homes are presumed to be historic, and the rules are very clear. The idea of potentially eligible for listing is confusing. He has clients that ask him what this means. It adds confusion and moments of limbo. Regarding the effect on property values with a historical designation, he said that some properties can apply for additional floor area ratio, up to 250 square feet, which adds value. He mentioned also relief from setbacks and ability to keep a basement in a flood zone for some properties. There are benefits and incentives on the books already. He said one of the key questions is how do homeowners who aren't familiar with the language of the ordinances learn about them? He suggested education on what it means to be eligible. He has sympathy for those who are trying to sell their home, or purchase a home. He said the City used to have a designated Historic Planner. A homeowner could meet, free of charge, with the historic planner, ask any questions, and become educated on the benefits or challenges of historic listing.

Vijay Chakravarthy, 540 Washington, agreed with the objections and wanted to offer a different viewpoint, trying to understand the perspective of the Board. The notion of preserving history is very subjective, and he did understand the process to be about discussion of preservation. He observed that, with the wetlands as an example, he would argue as an engineer that the equipment that was used has far more historic value than the building itself, so the idea of what constitutes history and what can be changed is subjective. He would like to have more dialogue to understand why some decisions are made. He pointed out that it is strange to have something be historical yet also operational at the same time. This is a burden that a homeowner faces. For example, the Wright Brothers' first airplane is historical, but you could not expect to fly it every day while preserving the history of it. In the context of a home, the homeowner is actually living in it. He would argue that his own historic home was designed in an era when kitchen staff were considered to not be visible by high-ranking guests elsewhere. Certain aspects of its design, materials, energy efficiency are unfavorable in the present day environment. He asked the reasons why these buildings are considered to be of value from the Board's perspective, which may or may not conflict with an owner's notion of value. Given that the homeowner has to live every day in a poorly-designed home every day, he feels it is a good dialogue to have.

Amnon Levy, owner of 250-252 Cowper, said during the November 9th meeting the Board heard comment from property owners requesting not to list their property. Several reasons were provided. One speaker shared that critical data indicated that listing a property in Palo Alto can cost 10 to 20 percent devaluation. For him that would amount to devaluation of his property by nearly \$1 million, which would be financially devastating for him. He asked that the Board think about the consequences to homeowners' lives in making their decisions. He said they don't have any intention to change or remodel their duplex. It will maintain its charming characteristics, so in their case the only consequence of listing would be a great financial loss. He asked that the Board give the homeowner a choice to opt in or out. As an owner of a property nominated for listing, he said there is a lack of clarity in the process moving forward. He does not have a good understanding of the possible outcomes of the discussion. He acknowledged it is not the Board's practice to respond to public comment, but after attending two meetings he wondered whether the Board intends to address some of the concerns brought up, including devaluation of property and inadequate incentives. Some homeowners mentioned no clarity in the process, no transparency, and confusion in the process. He was unclear if his property has been removed from the list, although he has seen it listed in different columns indicating that objection has been made. He wondered if these will be handled differently by the Board. He felt they were rushing to finalize the list, but they are not ready with the processes to support that, so they should step back and define processes and provide the homeowners with more formal information.

Jessica Tsoong, 360 Kellogg Avenue, appreciated the Board not advancing properties to the City Council for listing over the owners' objections. However, she wished to object to her property being categorized as "eligible" for the local inventory list and to ask that a local eligible list not be created. She said the ordinance does not state that owners can opt out of a local list, so creating one is a problem. She understands the desire to preserve historically significant buildings but the ambiguity in guidelines and inconsistent application of historic preservation requirements makes her wary of being considered on any list deemed eligible for local inventory listing. In her experience, being on the eligible list for the national registry has resulted in adverse impacts to their property and their rights as homeowners. She said when they renovated their house they were continually faced with a lack of consistent procedure and what seemed like arbitrary requirements by the review board in order to continue through the planning and construction process. They are also concerned about impact to their property value. She pointed out inaccuracies in the results of the 2023 reconnaissance survey being used to determine the historic list. One criteria applied to her property was criteria 5, that the building or architect was important. The survey stated a rear guesthouse on their property was designed by Birge M. Clark, architect of significance. She said this guesthouse is, in fact, not a part of their property, as the property was subdivided years ago and this house is at a completely different address – 1450 Waverly. However, to her knowledge, 1450 Waverly is not listed as a historic property. Such errors and discrepancies in the 2023 reconnaissance survey by Page and Turnbull make her concerned about the accuracy of the survey and how the historicity of properties is being determined. She asked that an eligible list for the local list not be created.

With no other public comments to be heard, Chair Eagleston-Cieslewicz moved to Board discussion.

Vice Chair Rohman asked Ms. French if the "inventory eligible" list is a requirement that must be submitted to the state, or if it simply exists for the purposes of this process.

Chair Eagleston-Cieslewicz followed up and asked about the properties deemed eligible. Her understanding is that means eligible for the state and national register, which is what invokes CEQA. As a Board they do not do that.

Ms. French said that was correct. From the 1997 to 2000 survey those properties which have come through the process to see if they still exist and still have integrity were found to be eligible and were sent to the Office of Historic Preservation back in the year 2000. To the extent that there have been additional properties identified in the survey as potentially eligible, and the Comprehensive Plan policy says that demolition permits cannot be issued until they find out if they are actually eligible – policy 7.2 in the Comprehensive Plan – those properties have been sent each year as they are found eligible or ineligible to the Office of Historic Preservation as well. This is a list that is a State database.

Chair Eagleston-Cieslewicz asked, if a homeowner had concerns about their HRE for purposes of California Register eligibility, how they would go about modifying that, whether there was a process with the State to do this.

Ms. Reiter explained that it would be a process of de-listing and the owner would need to provide evidence that either the integrity has changed or the property has been demolished, or that additional information has come to light which needs to be documented and submitted either to the keeper of the national register to remove it, or to the California register.

Vice Chair Rohman said in other words, Palo Alto's eligible list is only created because it is a requirement of being a certified local government by the State.

Ms. French said the obligation of a certified local government is to maintain the list of properties on a local register. It's part of being a certified local government, and it is a requirement to report annually to the State.

Vice Chair Rohman asked Ms. Reiter if there is any way to do away with the eligible list in Palo Alto. If so she asked what the ramifications would be.

Ms. Reiter responded that from hearing the public comment they need to clarify where there is confusion as to whether the properties that are not moved at this time to the Palo Alto inventory would become listed on a separate list in the City's records that they are eligible for the inventory but not listed. The concern is that an additional category of "potential eligible" is being created, versus being eligible for the national register, which all of the properties already are, including the ones they found which do not have integrity. She believed for those, the homeowner would have to submit information to the keeper of the national register. She said her organization could follow up with the state office to see if there is a process by which they could remove a larger number of resources if the City were to forward a list of properties that have lost integrity, to update those records.

Chair Eagleston-Cieslewicz said what she was understanding is that by virtue of state or national eligibility the properties are identified and are therefore eligible for CEQA. Being eligible under state or national categories also strongly suggests that a property would be eligible for local listing. For the objection properties to not be forwarded to Council, the state determination still stands, and this is something the Board cannot change.

Ms. French said they published a list of properties on the webpage, addresses that their consultant determined still had integrity and were therefore still eligible for the state register. That status is not proposed to change, although a property owner may wish that to be the case. The City could take steps with those that the consultant identified as no longer eligible to assist those property owners in having their property removed.

Chair Eagleston-Cieslewicz referred to the commentor who asserted that their assessment was inaccurate because it was no longer within their property's boundaries. They may want to engage with the process of dealing with a state or local nomination that may not apply.

Ms. French added that perhaps the only reason for the HRB to state that the objection properties are eligible for a local inventory is so that in the future this process does not have to happen again. It would

be a blanket for those homeowners going to through this process to return and perhaps go straight to Council with a request to be put on the inventory rather than have more HRB hearings to consider what category, under which criteria, et cetera. That was the purpose of reviewing a large group like this – to go through the process once.

Board Member Willis said because they didn't look at those that had owner objections they missed that opportunity, but she felt it was still something they should follow up on to clarify things. She thought they needed to, before the next meeting, be very clear about how being on the inventory versus being a historic resource not on the inventory differs. She thinks this happens in life – people assume the worst. She said, because they don't have any demolition protection in Palo Alto there is not much difference, aside from the incentives, for being on the inventory or being a historic resource that is not on the inventory. Before the next month's meeting she said she will try to clarify what the differences are for the properties. She said it is personal for the Board members as well, and she hoped that they could convince homeowners that being on the inventory is a good thing.

Board Member Heinrich asked about a property being placed on an "eligible list," where the owner has opted out of being listed on the inventory, implying that there are now two lists.

Ms. French said there is a published list of properties that the consultant found eligible for listing under certain criteria and for which category on the inventory. That list includes the "objections properties," where they have received objections. Those objections sometimes are that the owner doesn't think they are eligible under the criteria identified.

Board Member Heinrich asked if they are preparing to vote on two different items – the eligible list and the inventory.

Ms. French responded that it is for the properties for which they've received objections only.

Board Member Heinrich asked if a property owner has submitted an objection and they remain on the eligible list, and if fair and equitable incentives become available and they want to be moved to the inventory from the eligible list, if they would have to pay a fee to do so.

Ms. French said the City processes have funded the consultant assistance to go through this process. Her understanding is that if owners individually come forward and the HRB has not identified them as eligible under certain criteria they would have to individually come back to the HRB for the process for those properties that did not want to be recognized as eligible for the local inventory. They still remain eligible for the national and state inventory unless other actions are taken by the owner.

Board Member Heinrich wanted to clarify that if they want to opt in later they would have to pay a fee.

Ms. French responded that yes, that is how the system is set up, because it has to cover the costs of the things they have been doing in batches through the survey process, including staff reports, published notifications, notice cards, et cetera.

Chair Eagleston-Cieslewicz asked if it is possible to allow people to come back without going through the process again, to leave the door open for those who have de-listed themselves from the state and national registers to remove themselves from this process.

Ms. French said it is difficult to explain the processes and what to do if an owner finds that their property no longer has integrity.

Chair Eagleston-Cieslewicz said there is a process for de-listing.

Ms. French acknowledged this but said it not clear and is not in the ordinance.

Ms. Reiter said it would be difficult if an individual property owner came forward later who had wanted to be pulled off the list. Some on-the-ground work would need to be done in terms of assessing that, so it would be difficult to say that there would be no fees involved in that scenario to cover staff time for the process. She felt that any property owner who is objecting right now but within the next year or so finds that the incentives have improved and wants to be listed, few changes would have occurred to their property, so it might be more likely that something simple could be done to affirm the findings and move it forward. This would probably needed to be a time-bounded situation.

Chair Eagleston-Cieslewicz's understanding was, therefore, that it would be difficult for property owners that have registered objections to come back a in a few years and request listing on the Palo Alto inventory without paying associated fees and having their property assessed again.

Ms. French thought the Council would have to consider that and decide if it wanted to set up some sort of grace period.

Chair Eagleston-Cieslewicz remarked that it wouldn't involve the HRB.

Ms. French said Ms. Reiter's contributions are important because if someone comes back two or three years from now, and if they've built a second floor without any kind of historic review, then they would need to evaluate the property as to whether it still retains integrity. She added that building a second is possible for historic resources, but they would need to review its compatibility under the Secretary of the Interior standards.

Council Member Lydia Kou commented that, in listening to the discussion, there is a lot of confusion. There is a difference between being identified and becoming eligible. She wondered if there is a chart that illustrates the process from the point of identification to where it goes from there and which eligible list it automatically goes on. She wondered if there was some such chart.

Ms. French said all of the properties were previously found eligible for national and California, so that is not a point of the current discussion. The HRB is not set up to reverse those designations. For the properties found by the consultant to no longer have integrity she could try to find a way to help those properties come off of the California and national register eligibility. She thought for the February 23 community meeting they could help people understand that even if they have objected to listing on the local inventory, those properties are not automatically coming off of the California and national eligible list.

Council Member Kou said she understood this. She wondered why updating their ordinance was not a priority before jumping into this endeavor.

Board Member Heinrich agreed that they should have updated their ordinance before jumping into listing properties because they need to know the fair and equitable incentives first. They need to have the community discussion and then come back and do a vote. She would like to defer the decision for the day.

Chair Eagleston-Cieslewicz said the properties with no objections have been sent to Council already. What they could do that day was to follow up on their vote, to reiterate that properties with registered objections will not be sent to Council for consideration for the local inventory.

Board Member Heinrich wondered why they needed to reiterate this if it has already been done.

Chair Eagleston-Cieslewicz said the last vote showed their intent, but this would be the official vote.

MOTION

Motion by Chair Eagleston-Cieslewicz that properties with registered objections not be recommended to Council for consideration for listing on the Palo Alto Historic Inventory. Seconded by Board Member Pease, the motion passed unanimously.

Chair Eagleston-Cieslewicz hoped this would provide clarity for property owners who are concerned about the status of their property as part of the HRB's process.

Ms. French added that she looked to make sure that all of the people that spoke that day about their objections will have their properties published in the list of objection properties if they are not already on it.

Chair Eagleston-Cieslewicz said property owners could also object to Council.

Ms. French said this was correct. Even those already recommended by the HRB to Council can go forward with objections. There is no Council date yet regarding those properties. The intent is to have further conversations about incentives, the ordinance, et cetera, at the February meeting.

Board Member Willis asked about a real estate letter that came in the previous night.

Ms. French said she was at a meeting and did not see the email, but she had looked at it during the current meeting, and it was sent to City Council in addition to the HRB, so it will be published on both the HRB webpage and the Council webpage. She will forward any correspondence that came in the previous night to the Board members.

Chair Eagleston-Cieslewicz closed discussion of the item, reminding property owners of the February 23rd meeting, 6:00 p.m. in the Community Room. Refreshments will be provided, and the Board will be discussing incentives.

[The Board took a break from 10:14 to 10:17 a.m.]

During the break Board Member Willis asked those present if they had done any charts showing incentives for single-family residences or commercial buildings. She said she will do this for the next meeting. She said there is much fear and speculation about these things and she would like to demonstrate the facts, including incentives as well as any negatives involved. For example, how much longer does it take to get through the Building Department if you have a property on the inventory than if you don't? Also, getting facts straightened out with realtors.

Study Session

3. Brown Act Refresher

Caio Arellano, Chief Assistant City Attorney, addressed the Board. Mr. Arellano shared his professional background, noting that he has been conducting Brown Act trainings for quite some time and has sat with city councils and planning commissions, advising various bodies on ins and outs and pitfalls of the Brown Act. He shared tips and tricks for the HRB members to think about in the course of their work.

The Brown Act is the basic open meetings law for local government agencies in California. The State has its own open meeting law, which is basically the same. The key components of the Brown Act are, one, the meetings must be in public at a regular place and time. Two, the agenda for the meetings must be posted in advance, and members are not allowed to discuss any items that were not on the agenda. Three, there must be opportunity for public participation, both on agenda items and a separate opportunity for members of the public to address the body on anything that is not on the agenda. Planning staff and the City Clerk's Office prepare the agenda, noticing, setting up the room for in-person and virtual attendance and providing for public comment.

Mr. Arellano noted the two biggest questions involved in adhering to the Brown Act – are you a legislative body? And is what you are doing considered a meeting? If both of those are true, then the procedures must be followed. A legislative body is defined in the Brown Act to include any appointed bodies, such as the HRB, or standing committees of the City Council. Other legislative bodies may include any boards or commission included in the Municipal Code, any advisory bodies created by City Council action, or some board, commission, or City Council subcommittees. For example, if the HRB established a subcommittee to work on a particular issue that the full Board doesn't have time to discuss and they wished to delegate some of the work to a smaller group for efficiency sake, they should work with staff to make sure they are not running afoul of the Brown Act when doing so.

Mr. Arellano explained when the Brown Act does not apply. It does not apply to individual discussions members may have with members of the public or the staff. This is because they are not meeting as a board. Communications between less than a quorum of the board or committee is not a meeting because there is not a majority of members present. For the HRB there must be four or more members present to be considered a meeting. The Brown Act does not apply to ad hoc subcommittees which involve less than a quorum.

Mr. Arellano discussed the question, "What is a meeting?" which is the main thing to be concerned with. The Board must not unwittingly do something that would be considered a meeting as defined by the Brown Act. The statute defines a meeting as "a majority of members at the same time and place to hear, discuss or deliberate on any matter within the subject matter jurisdiction of the body." He provided examples of circumstances and situations which would or would not be considered meetings. He explained that a common pitfall with regard to the Brown Act are serial meetings. He stressed, with regard to emails, not using "reply all" or "send to all." Secondly, he stressed being very careful about using social media posts

or message boards to discuss, present an opinion, or "like" or "dislike," any HRB-related matter. Mr. Arellano presented a scenario for Board members to participate in to test their understanding of the concepts presented.

Ms. French added that it is always appropriate to send any communication to her as the liaison to the Board to avoid any mistakes. She noted that their webpage, thanks to recent interest by the public in greater transparency, includes publishing any public comments addressed to any Planning Department commissions. Anything sent to the HRB is published on their webpage. If there is communication that looks like a serial meeting may have happened, she does publish those on the webpage, stating "Board communication," in order show the public what has been discussed, although they try to avoid needing to do that.

Mr. Arellano added that there is nothing to prevent members of the public from emailing the Board members as a group. The Board's responsibility is to make sure they are not discussing or deliberating outside the context of a noticed meeting. They can thank the individual for the communication but save the discussion for when the Board comes together.

Board Member Pease posed the question if there is a three-person subcommittee that wishes to have something agendaized and wants to communicate that, what is the proper procedure.

Ms. French replied it should be sent to her, the liaison. She would have that discussion with the Chair about the appropriate meeting in which to bring it forward, given any work that needs to be done by staff to support the request or any notice of it that needs to be advertised. She asked the entire Board that, if they are holding a subcommittee meeting, if it starts to become a regular meeting, then it becomes something that needs to be advertised.

Board Member Pease noted that the Ms. French typically meets with the Chair and Vice Chair for a pre-meeting on the Monday before a Thursday meeting. He asked if a subcommittee wanted something to be agendaized, what the timeline would typically be in order to do that, given necessary advertising requirements, et cetera.

Ms. French said they typically publish the agenda at least 72 hours in advance. For something that came up Monday at noon, when she and the Chair and Vice Chair meet, it would be too late to put on the agenda. There is a section on the agenda for reports from officials that can be general topics, so a subcommittee could report out on something, but it would not be a discussion because it has not been advertised.

Mr. Arellano agreed with this assessment. He said one issue is the question of how a subcommittee puts an item on the Board's agenda, and what the lead time for doing so would be.

Ms. French said in general 8:30 on Monday morning for the Thursday meeting would be the deadline for a known topic that a subcommittee wanted to be discussed to be put on the agenda.

Mr. Arellano further commented that the subcommittee chair could then contact the staff liaison before this time.

Board Member Pease wondered, if an ad hoc subcommittee gets together and decides that there is urgency and they would like something agendaized, and the subcommittee meeting is on Wednesday, if the request was made by early Monday morning, if it would be possible to get it added to the agenda to be published in writing.

Ms. French responded that it would have to be before 8:30 on Monday, so she would hope that the communication would come to her by at least Friday the week before.

Chair Eagleston-Cieslewicz invited public comment on the item. There was none.

Approval of Minutes

4. Approval of Historic Resources Board Draft Minutes of December 14, 2023

Chair Eagleston-Cieslewicz recused herself from this item because she was not in attendance.

Board Member Willis pointed out an anomaly in the text on packet page 24 which was discussed and corrected.

MOTION

Motion by Board Member Willis to approve the draft minutes of the December 14th meeting as corrected. Seconded by Board Member Heinrich, the motion carried (6-0-1) by voice vote.

Board Member Questions, Comments, Announcements or Future Meetings and Agendas

Board Member Willis said she received a notice from the November meeting in which her property was nominated. It said, "Your property will be heard again on Thursday, January 25th to reaffirm eligibility for local inventory listing and voted on for recommendation." She asked if that was done, or was going to be done.

Ms. French said she didn't thoroughly look at the message in that letter, but the intent was for all of the November 9th properties that didn't have a certified letter to have a chance to receive a certified letter so that, even if they hadn't been following the process, they could be aware that today they could still object.

Board Member Willis added that she thought the letter could be a little more user-friendly.

Ms. French agreed that there was a lot of information in it. She said she had been out of the office the last week. She requested to see the letter to view what actually was received. She noted that they had planned to send certified return receipt letters to all of the properties that have been nominated for which they have not received objections. She said they will make a nice letter in within the next week to make sure everyone knows about the February 23rd meeting as well, where they can voice their ideas and concerns regarding incentives, the ordinance and other confusion.

Vice Chair Rohman said this discussion would be put in the packet for the next meeting.

Ms. French advised that there was a member of the public that wanted to comment on approval of the minutes, and asked the Chair if she wished to re-open that item to receive comment.

Chair Eagleston-Cieslewicz agreed to this.

Darlene Yaplee said on the previous minutes on the 9th, there has been a lot of communication about what communication they are to receive – letters or postcards. She felt it is unclear what people have actually received. She has never received anything except two postcards and a letter on the 9th meeting. She has not gotten a reminder on the 25th meeting. She didn't know if this was because she had objected, but she not received anything since the 11-9 meeting. People are confused as to when they have received notices and don't understand what meetings they should go to or not go to. She wanted to comment that it was communicated in the minutes what people were supposed to get, but she was not sure what she was supposed to have gotten, and many others have not.

Chair Eagleston-Cieslewicz asked if the vote on the minutes could stand.

Ms. French said the minutes could stand. She added that they will do their best to help people understand through the next set of meetings. Staff's intent has been to reassure people that submitted objections have been received and heard.

Board Member Heinrich announced that PAST is starting their spring walking tours again. Their website shows all of the neighborhoods, dates and times.

Board Member Wimmer said the next time they will be together will be at the community meeting on February 23rd. She asked if there is anything they should be doing in preparation for that, or if it would just be an open forum, an opportunity for the public to speak.

Chair Eagleston-Cieslewicz said it would be a discussion of incentives and hearing from the community what they would like to see, what would make having their property listed perhaps more appealing, et cetera. They could also talk about what is currently available.

Ms. French asked that if anyone on the HRB has ideas of what that meeting could be or what they would like to see, to please email her directly. She will compile all ideas from all members of the HRB. She asked them to do this soon as it takes time to develop each packet, provide notice to the newspaper, et cetera.

Adjournment

MOTION

Motion by Chair Eagleston-Cieslewicz to adjourn. Seconded by Board Member Heinrich, the motion carried unanimously by voice vote.

The meeting was adjourned at 10:52 a.m.