

MINUTES OF THE 270th STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION

5 May 1983

F. Otto Haas, Chairman

Present: Janet S. Klein, Vice Chairman (Acting Chairman in Mr. Haas' absence).
Edward Pinkowski
Paul Daegan, Deputy Commissioner, Department of Public Property
Val C. Mogensen, Executive Assistant Director of Finance
Herbert W. Levy, A.I.A., Architectural Advisor to the Commission
Kenneth Cooper, Assistant City Solicitor, Law Department
Richard Tyler, Historian
Patricia Siemiontkowski, Architectural Historian
Jefferson M. Moak, Executive Secretary

Unless otherwise noted, all actions taken herein are the results of motions correctly made, seconded and carried.

THE MINUTES of the 269th Stated Meeting of the Philadelphia Historical Commission, 3 March 1983, were reviewed, approved and directed to be filed.

THE REPORT of the Architectural Committee for 20 April 1983, Herbert W. Levy, A.I.A., Chairman, Architectural Advisor to the Commission. The Report of the Architectural Committee for 20 April 1983 was reviewed by the Commission. Action on 908-910 Spruce Street was tabled pending the submission and review of an isometric or a perspective drawing to show the rear elevation of these properties in three dimensions. Except for this single item, the Report of the Architectural Committee for 20 April 1983 was approved and directed to be filed with the official copy of the minutes. Concerning 102, 104 and 106 Arch Street, the Commission recommended the use of a lime based mortar in repointing the masonry. It was noted, in regard to 238-244 South 8th Street, that a member of the Architectural Committee or the Commission staff will examine prepared test areas before any extensive cleaning or repointing is undertaken on these properties.

THE REPORT on Philadelphia Historical Commission Staff Activities for March and April, Richard Tyler, Historian. Mr. Tyler elaborated on several items mentioned in the March-April report including the Advocate Community Development Corporation's Adopt a Block program, a proposed Broad Street National Register district and the current status of the lawsuit concerning 17th and Locust Streets. Following some discussion, the Historian's report was approved and directed to be filed with the official copy of the minutes.

OLD BUSINESS

Certification Objections. Mr. Moak presented to the Commission members a list of properties whose owners either objected to the certification of their buildings or requested that certification be postponed. The Commission members reviewed the list and voted to refer each of these properties back to the Committee on Certification for its review and a recommendation.

Ordinance Progress Report. The Commission's Historian reported to the Historical Commission on the progress achieved in the formulation of a new preservation ordinance. A copy of the Historian's report is attached as an official part of this Minute.

There being no further business, the meeting adjourned at 4:25 P.M.

Respectfully submitted,

Patricia Siemiontkowski
Architectural Historian

REPORT ON MEETINGS OF THE ORDINANCE COMMITTEE

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The Ordinance Committee, consisting of Mrs. Klein and Messrs. Mogensen and Levy, held three meetings with the Commission staff and Kenneth Cooper, Deputy City Solicitor, and discussed the draft ordinance in considerable detail.

The members of the Committee raised a variety of fundamental issues in these meetings. All three members questioned the need, desirability and function of the creation of an authority to establish historic districts. The inclusion of an historic district jurisdiction in the draft rested on three points. First, mainstream preservation has relied primarily on districts for over a decade, for the concern of preservationists has expanded beyond merely an interest in the single landmark to the protection of an historic ambience. Indeed, Pennsylvania's enabling legislation, which exempts cities of the first and second class, provides only for districts, and Philadelphia's predecessors in the establishment of historical commissions, e.g., New Orleans and Charleston, limited preservation activity to defined districts. Second, district ordinances and designations encounter less difficulty in the courts than landmark certifications. Zoning affords a parallel; the courts regularly strike down spot zoning and uphold district zoning. Third, to meet the criteria of current federal legislation and regulations for certification of a local ordinance and thus the extension of the federal tax incentives for preservation, a municipality must authorize the creation of historic districts. These three points did not fully satisfy the Committee. In their discussion, they expressed concern about possible hardships imposed upon owners of limited means in districts and about the adequacy of the process for notification to owners in districts under consideration for designation. They also thought that we should not be propelled precipitously to revise the existing ordinance by economic considerations such as the federal tax incentives. Following comment on the Commission's tradition of reasonableness and pragmatism and on the importance of real estate economics to historic preservation, the Committee asked the Historian to prepare a written statement on the need for historic districts.

The provision for the review of the design of new construction within historic districts aroused serious doubts

among the committee members, the City Planning Commission staff and members of the Mayor's Development Council. In part this opposition rested on the question of an historical commission's assessing the quality and appropriateness of contemporary design in a district, and in part it stemmed from a fear of imposing yet another review procedure on the development process. The Historical Commission staff is, at best, ambivalent about including this jurisdiction in the ordinance. The Law Department has been asked to delete all references in the draft to a control over new design and construction in historic districts.

The composition of the Commission elicited comment from a variety of sources, including the Committee. For example, the pending relocation of the City Planning Commission to One Reading Center aroused concern that the present close cooperation between the two Commissions could be lost. Out of this and a recognition of the planning function of preservation, it was recommended that the Chairman of the City Planning Commission or his designee sit on the Historical Commission as a non-voting, ex officio member. Similarly, owing to the Commission's role in the review of building and demolition permits, the Committee suggested the inclusion of the Commissioner of Licenses and Inspections in the same manner as the Chairman of the City Planning Commission.

Members of the Committee expressed reservations about some of the proposed powers, the format and the language of the draft ordinance. In Section 4, Mr. Mogensen challenged subsection (a) which would allow the Commission to adopt criteria for certification beyond those enumerated in the draft under Section 5. All members questioned the absence of an explicit provision for the oversight of the Commission's activities. The format yielded considerable discussion about the need to divide the text into many subsections. The format, as drafted, follows the common practice of City Council and conforms to the expectations of the courts; in addition, it enables ready severability in the event of a successful constitutional test of any specific section or subsection. Format also bears on clarity. Members of the Committee found that some words, phrases and sections lacked clarity. They particularly noted Section 2, definitions, and Section 7 (1), issuance of permits for buildings under consideration for certification. These issues, format and clarity, led Mr. Mogensen to redraft the proposed ordinance into essentially paragraph prose. The Law Department and staff continue to work on these matters and the Committee's questions and recommendations.

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The many points raised by the Committee as well as by the staff and by the Law Department internally took the Law Department back to the City Charter and its provisions for commissions and boards. Together, the Committee's deliberations, the staff and Law Department consultations and the Charter research have required modification of the original draft. A new proposal should be available for further review after the adoption of the budget for Fiscal Year 1984.

Respectfully submitted,

Richard Tyler
Historian