



Board of Supervisors Memorandum

September 5, 2023

Tucson-Pima County Historical Commission

Background

In the Spring, 2021, both the City of Tucson Mayor and Council and the Pima County Board of Supervisors voted to split the joint Tucson-Pima County Historical Commission (TPCHC) into two jurisdictional commissions, as recommended by the State Historic Preservation Office (SHPO). This was the result of a flawed initial directive from the National Park Service that Certified Local Governments in Historic Preservation (CLGs) must have separate historical commissions. Consequently, both City and County staff were directed to develop new and revised ordinances and articles of operation for their respective historical commissions and its members, and to identify any necessary Code revisions.

Further research by staff into whether joint historical commissions for CLGs existed in other states found a number of cases where cities and counties with separate certifications had joint historical commissions. This was pointed out to the Arizona SHPO who arranged a meeting with Pima County (Linda Mayro, Manabendra Changkakoti, Courtney Rose) and the City of Tucson (Koren Manning, Lynne Birkinbine, and Jodie Brown) together with Cory Kegerisi from the National Park Service (NPS) and Arianna Urban and Eric Vondy from SHPO to discuss this issue. SHPO requested that the NPS issue a response on November 4, 2022.

On December 15, 2022, the NPS provided a formal written response to the Arizona SHPO (Attachment). The letter states that, *"Both Pima County and the City of Tucson are CLGs, and while each community is certified separately, it is the existence of the joint commission that satisfies that CLG commission program requirement for each community."* The letter further states that under the National Historic Preservation Act (54 U.S.C. 302503) and its regulations, *"The statute and these regulations neither require nor restrict CLGs from appointing a joint Commission, so long as the Commission has the legal authority to act within each jurisdiction, and the members meet the membership requirements established in the statute, the regulations, the adopted State CLG procedures, and relevant State or local laws."*

This analysis indicates that the original statement by an NPS staffer of the need to split the current joint historical commission was incorrect. The source of the confusion was derived from the situation in other states where several counties and municipalities joined together to create a single CLG with a joint historical commission to serve all those government entities, which is not an acceptable practice to NPS.

The Honorable City of Tucson Mayor & Council and Chair and Members, Pima County Board of Supervisors

Re: Tucson-Pima County Historical Commission

September 5, 2023

Page 2

The City of Tucson and Pima County have separate CLG certifications. Therefore, the NPS has concluded it is acceptable for separately certified CLGs to have a joint historical commission, provided each jurisdiction continues to meet the conditions for certification.

Present Considerations

The joint Commission is well established in our community and has fostered a comprehensive regional approach to preservation of our historic resources. During discussions with the TPCHC and stakeholders as we began the process to establish separate City and County Commissions, community members voiced support for a joint Commission and expressed strong value for this regional partnership.

Taking the new NPS response into consideration as well as City and County staff time and cost savings, there are clear benefits to maintaining the joint historical commission.

- Pima County and the City of Tucson have worked together successfully in maintaining a joint historical commission since 1974.
- Pima County and the City of Tucson have shared interests in the preservation of historic properties, and in some cases shared jurisdiction. For example, some historic properties are owned by Pima County but located within the City of Tucson. In other situations, the City and County conduct various construction projects in each other's jurisdiction that have the potential to affect historic properties, and outside agency projects like the Western Area Power Administration power line upgrades affect both jurisdictions.
- The County and the City actively work together to promote best practices in preservation and resolve issues that may arise. Two current examples include recent IGAs between the City and County for the County to oversee the Silverbell Road archaeological studies and the Fort Lowell rehabilitation of historic structures.
- If the City and Pima County were to administer their own historical commissions, there would be considerable duplication of effort involving staff time and attendance of separate commission meetings. Since both the City and the County have shared interests, City and County staff would not only need to oversee and support their own meetings but would need to provide updates and attend both commission meetings each year, thus having to duplicate work, time, and effort.
- Per the current IGA for the joint commission, the City and County are directed to share the cost for administering the TPCHC. This results in lower costs to both jurisdictions.

Should the two jurisdictions choose to maintain a joint historic commission, staff recommend a number of process improvements and potential code changes to ensure a coordinated approach between the two jurisdictions and improve the historic review process.

These include:

- Ensure a staff liaison is assigned to all subcommittees of the Commission, with subcommittee assignments and the associated responsibilities shared between City and County staff
- Reinforce membership standards for Plans Review Subcommittee (PRS) as defined by Tucson City Code Section 10A-1(i) – including requirements for members with professional qualifications, and a requirement that at least 5 members are City of Tucson residents.

For City of Tucson:

- Maintain Historic Preservation Zone (HPZ) Advisory Boards with a requirement for at least one design professional (architect, archaeologist, architectural historian, etc.) to ensure qualified expertise.
- Streamline historic review process:
 - Create a list of minor reviews that can be completed by staff
 - Explore options for a single-step review process in which only HPZ Advisory Boards review certain projects (the current two-step process requires both HPZ Advisory Board and PRS review for most projects)
- Consolidate and condense the design guidelines currently located in both the Unified Development Code and the Technical Standards Manual.
- Explore changes to the code to reflect best practices for interior designations, delisting, penalties for unpermitted work, and deconstruction.

For Pima County:

- Clarify County membership requirements, appointments, re-appointments, and term limits so that all members have the same requirements.
- Reinforce membership standards, including requirements for members with professional qualifications.
- Resume Code audits to update Chapter 18.63 – Historic Zone, and other chapters as needed.

These potential process and code changes would be shared with the TPCHC and other stakeholders for further input, discussion, and refinement. Any code amendments would ultimately be reviewed and considered for adoption by Mayor and Council and the Board of Supervisors, respectively, following review by the City Planning Commission and/or County Planning and Zoning Commission.

An item will be placed on the September 5, 2023 Board of Supervisors Agenda and the September 6, 2023 Mayor & Council Agenda for discussion, direction and action by the respective bodies.

Recommendation

Considering the NPS formal response, our shared goals for the preservation of historic resources, and clear efficiencies, we therefore recommend that the City and County retain the joint Tucson-Pima County Historical Commission as allowed by the Certified Local

The Honorable City of Tucson Mayor & Council and Chair and Members, Pima County
Board of Supervisors


Re: Tucson-Pima County Historical Commission

September 5, 2023

Page 4

Government program, and to direct City and County staff to develop any needed revisions to City and County ordinances and articles of operation for the Tucson-Pima County Historical Commission and its members, and to identify any necessary Code revisions.

Respectfully submitted,



Jan Leshner

Pima County Administrator



Michael J. Ortega, P.E.

Manager, City of Tucson

JKL/dym - August 22, 2023

Attachment

ATTACHMENT



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, NW
Washington, DC 20240

H36 (2256)

December 15, 2022

Arianna Urban
Certified Local Government Coordinator
Arizona State Historic Preservation Office
Via email to: aurban@azstateparks.gov

Dear Ms. Urban:

This letter is in response to your November 4, 2022, letter requesting guidance on the practice of multiple local governments sharing a single historic preservation commission and how such an arrangement relates to the requirements of the Certified Local Government (CLG) program. Based upon your letter as well as prior conversations with staff from the State, Tribal, Local, Plans & Grants (STLPG) Division, it is our understanding that this question arises from the longstanding arrangement between Pima County (the County) and the City of Tucson (the City). For the past several decades, historic preservation activities in these communities have been led by a historic preservation commission comprised of members appointed by both the City and the County. Under separate ordinances adopted by the City and County and related inter-governmental agreements, the commission has decision-making roles in both jurisdictions. Both Pima County and the City of Tucson are CLGs, and while each community is certified separately, it is the existence of the joint commission that satisfies that CLG commission program requirement for each community. Please let me know if my description is incomplete or inaccurate. The City and County are now considering dissolving the joint commission, leading to the question of what implications this may have on the eligibility of these communities to continue their participation in the CLG program.

The Federal regulations for the CLG program (36 CFR Part 61.6(e)(2)) require, among other things, that CLGs “establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission). This language reflects the parallel requirement that the National Historic Preservation Act (54 U.S.C. 302503) lays out. All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members” (36 CFR Part 61.6). The statute and these regulations neither require nor restrict CLGs from appointing a joint Commission, so long as the Commission has the legal authority to act within each jurisdiction, and the members meet the membership requirements established in the statute, the regulations, the adopted State CLG procedures, and relevant State or local laws.

In the scenario you have described, if the City and County were to dissolve the joint commission,

each jurisdiction would need to amend or adopt legislation (or otherwise take the appropriate legal steps under State or local law) to establish a new commission and appoint qualified members to serve within their respective borders to remain eligible for the CLG program. Should they take such action, the communities should notify the SHPO of the new legal authority and provide you with the appropriate information to verify that they continue to meet the Federal and State CLG program requirements. As appropriate, the SHPO would then make the necessary modifications (if any) to the certification agreements for these communities to reflect the changes. In order to avoid a gap in the ability of the City and the County to be able to continue functioning as CLGs, we recommend that the two local governments set up their new system close in time to the dissolution of the joint commission. Should the joint commission be dissolved and either or both jurisdictions fail to establish their own commissions, then your office will need to follow the technical assistance and decertification (involuntary or voluntary) protocols identified in your State CLG procedures.

As with any significant changes to a CLG's preservation program, especially those that may impact the community's eligibility and certification agreement, please share the updated documents with NPS for our files. Your office and our office should have identical records regarding the authority for and the legal structure of each CLG. If you have further questions on this or other CLG related topics, please contact the STLPG CLG program staff at CLG_Info@nps.gov.

Sincerely,

A handwritten signature in blue ink, reading "Megan J. Brown". The signature is fluid and cursive, with the first name "Megan" being more prominent.

Megan J. Brown
Chief State, Tribal, Local Plans and Grants/Acting Certified Local Government Coordinator

cc: Kathryn Leonard, Arizona SHPO
Eric Vondy, Arizona SHPO
Cory Kegerise, NPS