
What's What at the Local Level

**California Preservation Conference
Presidio of San Francisco
Preservation 101
April 28, 2004**

LOCAL GOVERNMENTS' ROLE AND RESPONSIBILITY

AUTHORITY

RESPONSIBILITY

STRUCTURE

Authority

California Constitution

Courts

Statutes

Local Legislation

Authority

California Constitution

- Grants every city and county police power
- Police power enables local governments to act to protect the health, safety, and welfare of their citizens

Authority

California Courts

- Historic preservation is a valid public purpose, which is an important prerequisite for all government actions
- Land use regulations, including zoning and historic preservation ordinances, are authorized under the public welfare component of the police power

Authority

California Statutes

Specifically authorize local governments to acquire and protect historic resources

- ✓ For counties: California Government Code 25373(b)
- ✓ For cities: California Government Code 37361(b)

Authority

Local Legislation

The ordinance is the basic authority for the local preservation program

Responsibilities

- Procedural Due Process
- Brown Act
- Rules of Order

Responsibilities

Procedural Due Process

- Procedures designed to safeguard individuals from arbitrary government action
- Based on 14th Amendment

*“The fundamental requisite of due process of law is the opportunity to be heard.” --
Grannis v. Ordean, 234 U. S. 385 (1914)*

Responsibilities

Procedural Due Process

- ✓ Notice of a commission/board action
- ✓ Need for and type of hearing required
- ✓ Procedures necessary for fair and informed decisionmaking that is based on public record

Responsibilities

Ralph M. Brown Act

- ❖ California law governing notice and open meeting requirements for local governing bodies
- ❖ http://caag.state.ca.us/publications/2003_Intro_BrownAct.pdf

Responsibilities

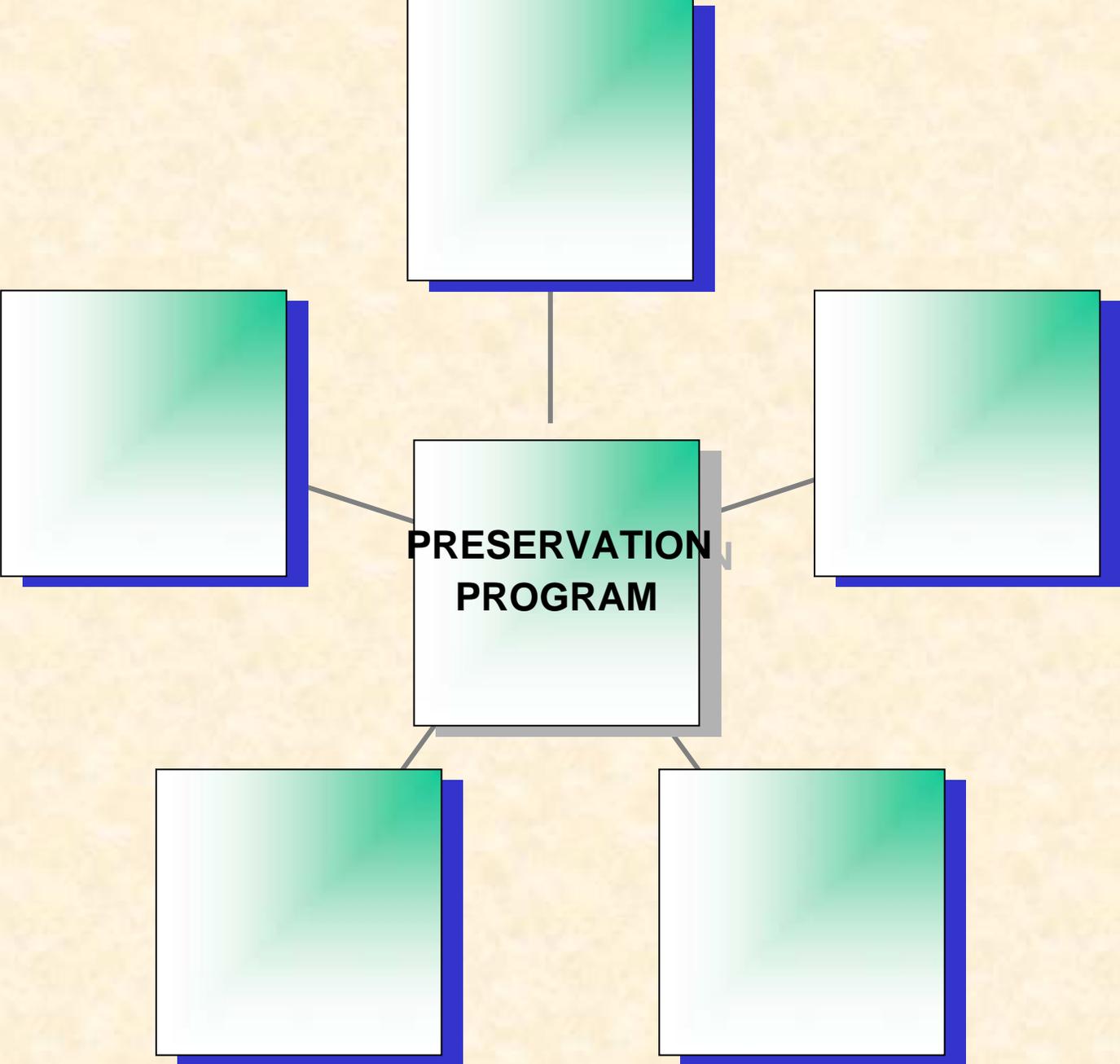
Rules of Order

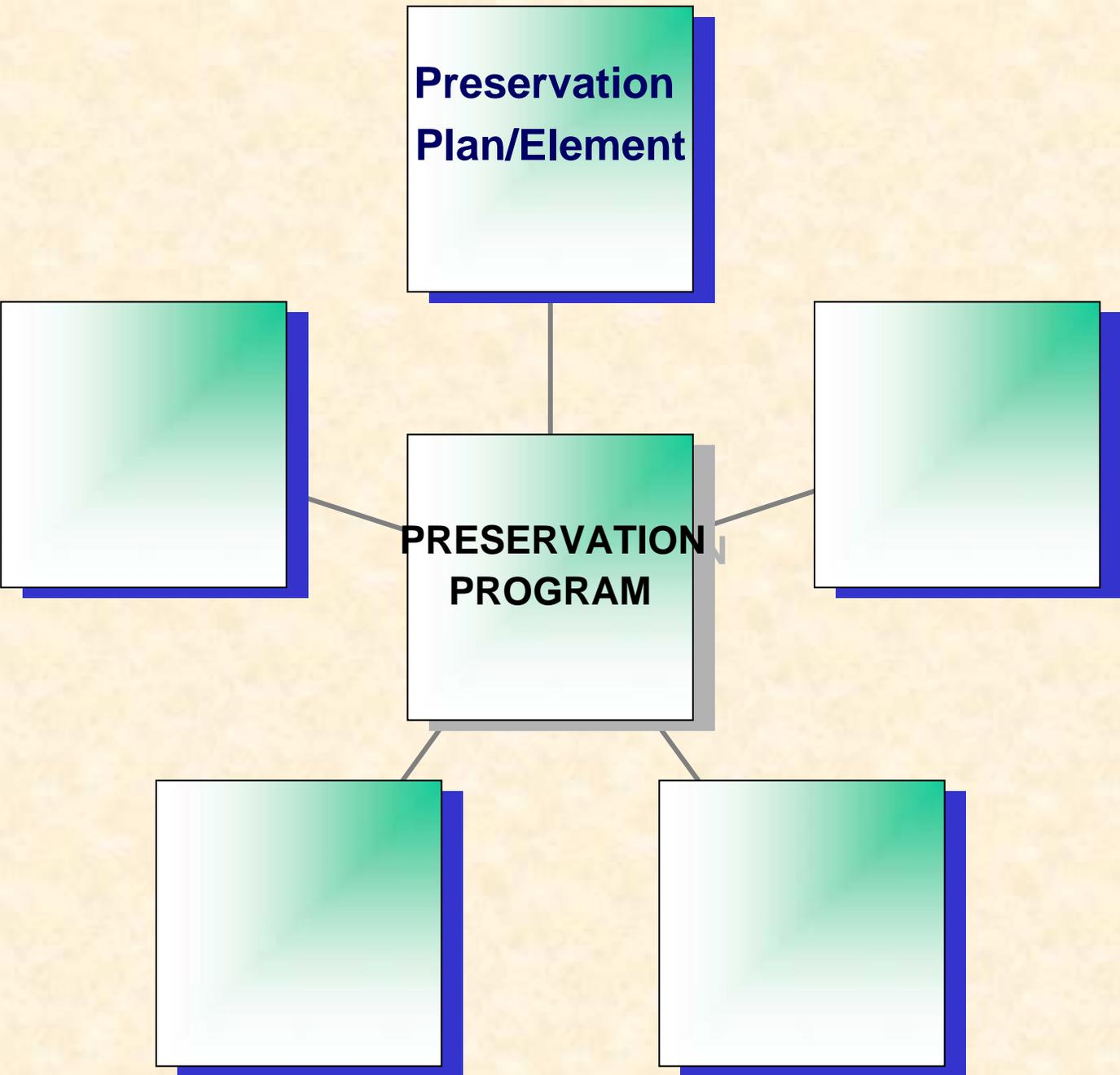
- Create and follow your own rules of procedure
- Treat every person fairly and impartially
- Maintain control and decorum
- Do not delay or compromise decisionmaking
- Avoid surprises

Responsibilities

Rules of order

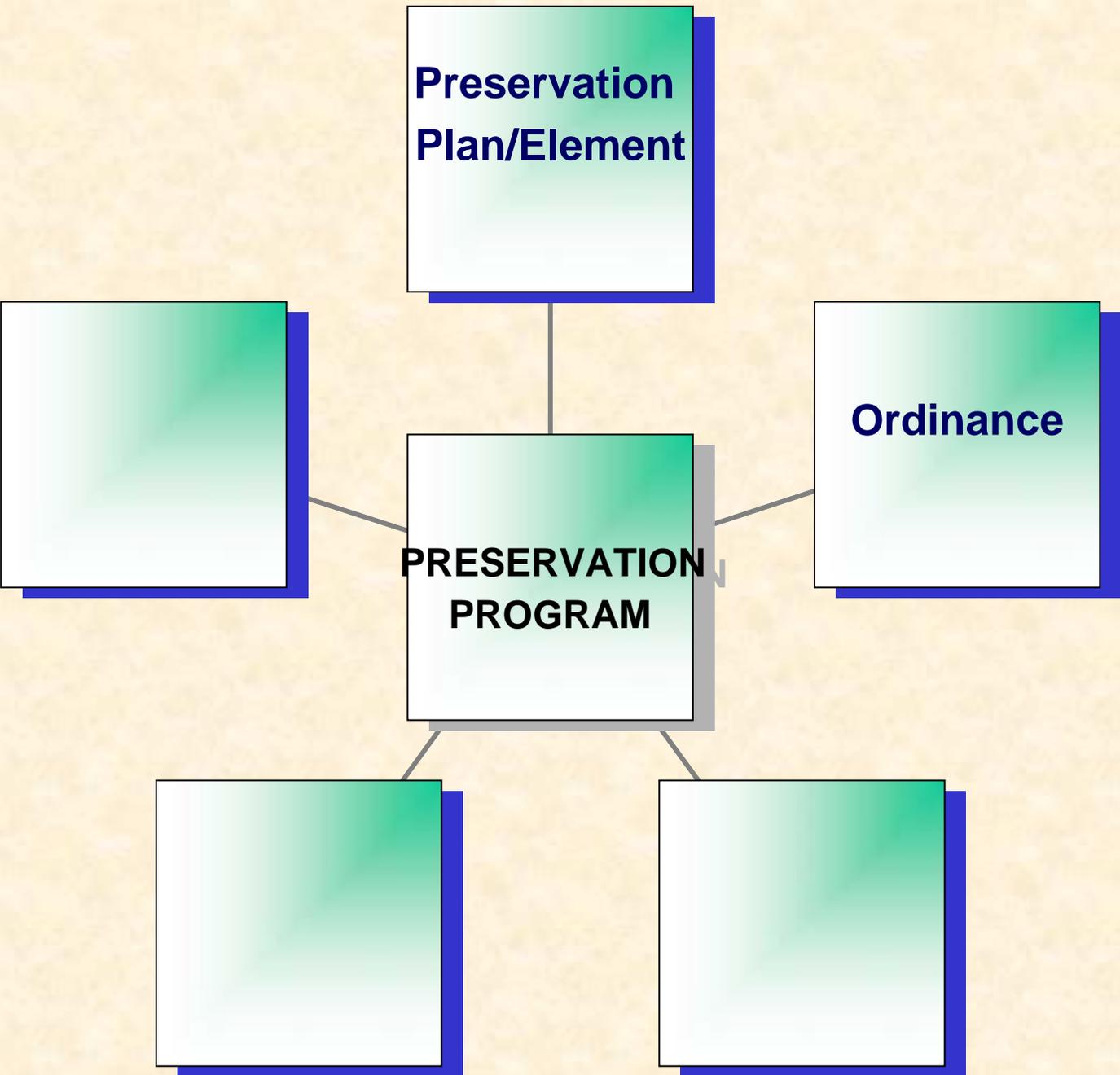
- Look from the vantage point of outsiders
- Record, Record, Record
- Listen to legal counsel
- Explain your decision
- Follow your criteria

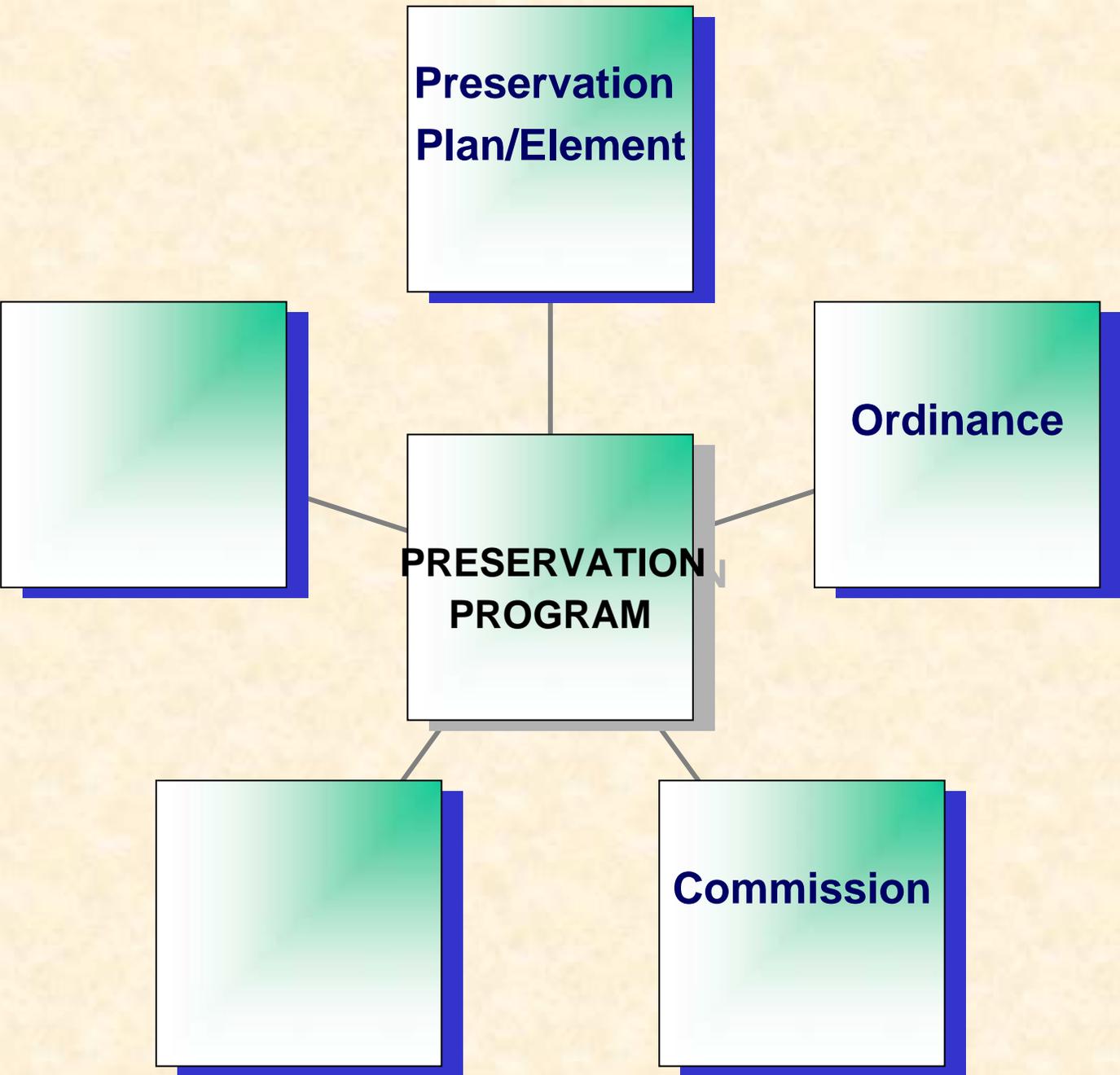




**Preservation
Plan/Element**

**PRESERVATION
PROGRAM**



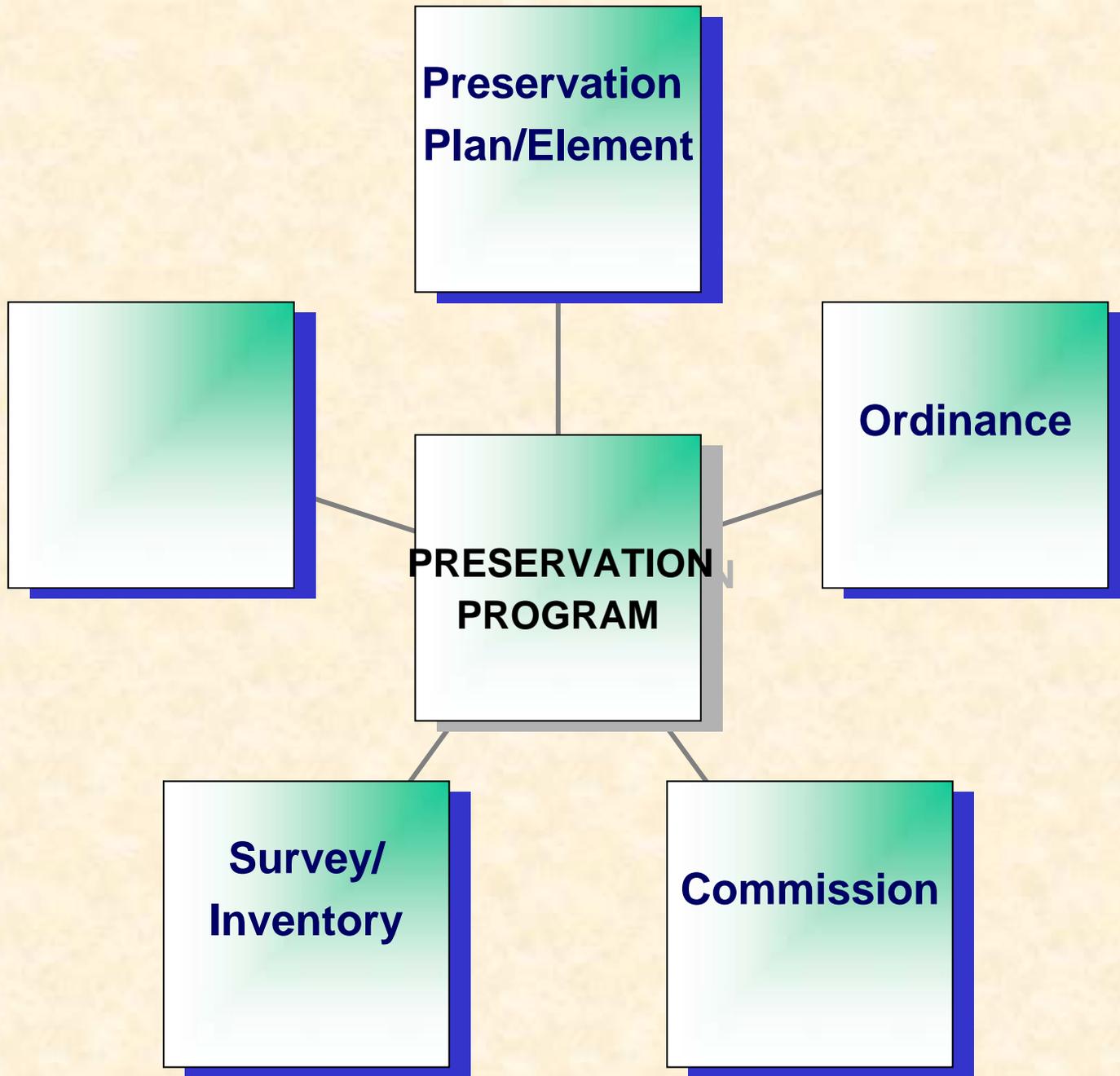


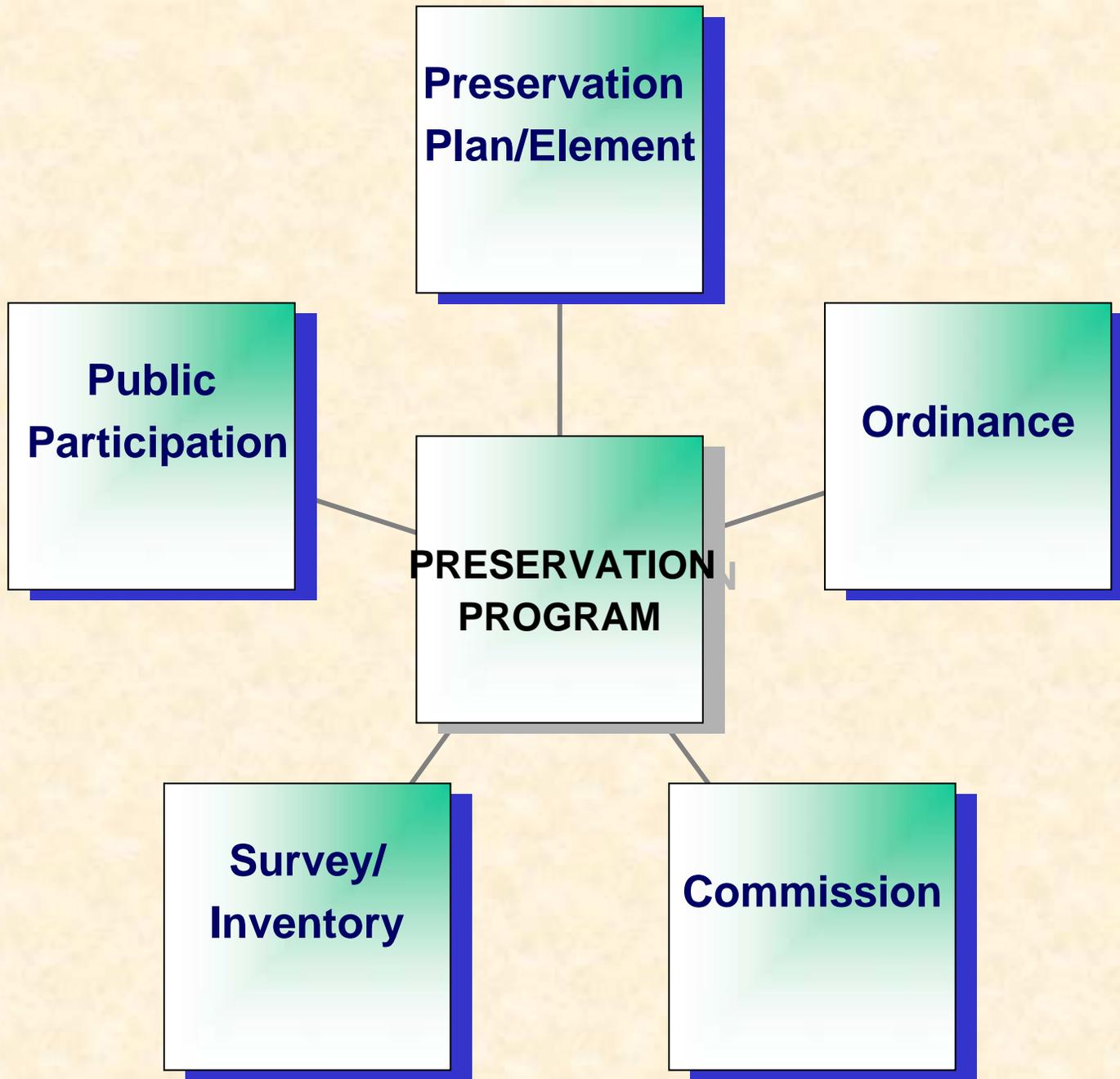
**Preservation
Plan/Element**

Ordinance

**PRESERVATION
PROGRAM**

Commission





Structure

Preservation Plan/Element

- General Plans represent the only formal, unified overview of the quality of life in a community
- Important to include preservation in long-range community planning
- Identify preservation goals
 - Long term
 - Work Plan

Structure Ordinance

- Purpose
- Enabling authority
- Establishment of commission
- Procedures and criteria for designation of historic resources
- Procedures and criteria for reviewable actions

Structure Ordinance

- Consideration of economic effect of designation or review of action
- Appeals
- Incentives
- Enforcement
- Definitions

Structure Commission

Membership and responsibility

professionals versus lay members

regulatory power or advisory

Structure

Survey/Inventory

- Data collection
- Provides the information to identify and prioritize preservation goals
- Tells us **where** properties are, **what** they are, and **whether** they are historic properties

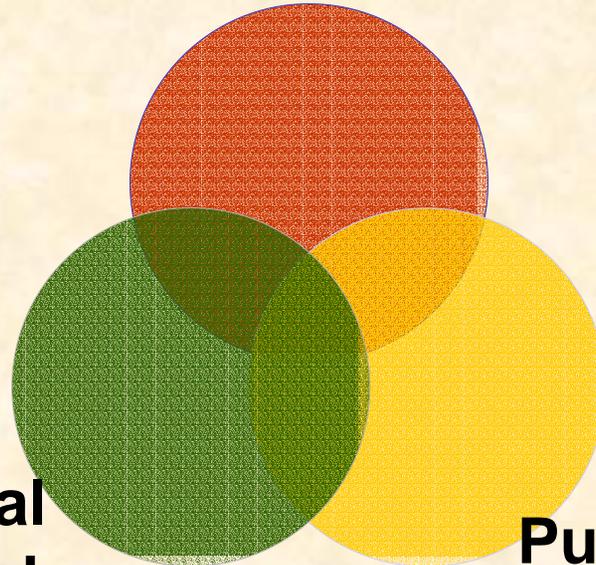
Structure

Survey/Inventory

- Assists in identification of resources worthy of further recognition or designation
- Offers predictability by alerting ahead of time of how properties will be treated in regulatory procedures and code enforcement

Structure Public Involvement

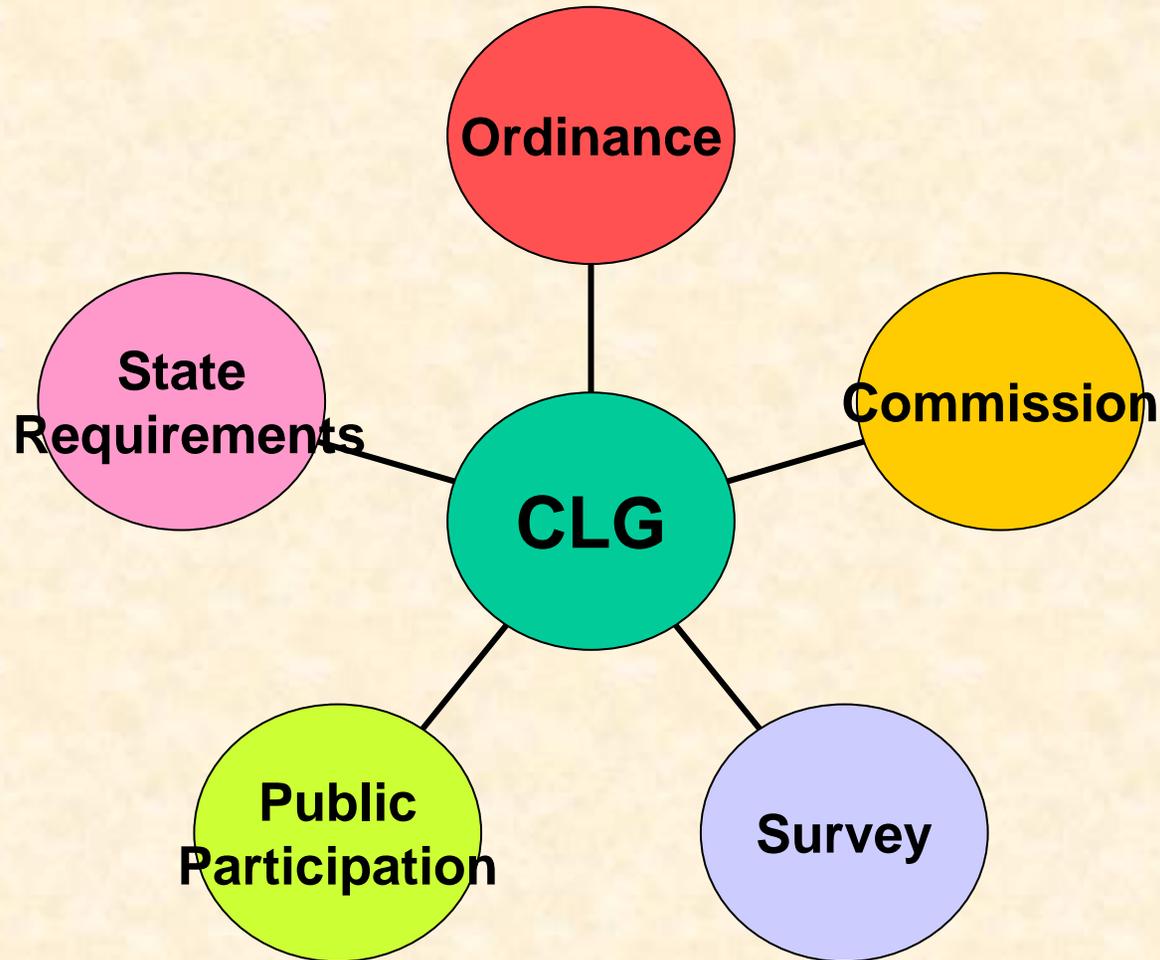
Websites



**Personal
Outreach**

Publications

Certified Local Government Program



Why Become a Certified Local Government?

- Ties Preservation to Land Use Planning
 - Cachet
 - Grants
 - CLG listserv
 - Technical Assistance
 - Best friends with OHP!