

ADDITION(S) TO AGENDA

The following additions have been made to this meeting's agenda:

* Unfinished Business

#9-A Historic District Ordinance ~ Introduction

Your motion to approve the Agenda will be "as amended".

KANE, CLEMONS, JOACHIM AND DOWNEY

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JOHN C. KANE (1920-1998)
THOMAS M. CLEMONS, JR.
GEORGE J. JOACHIM
JAMES T. DOWNEY, JR.

September 2, 2014

John Gabor
City Manager
City of Marine City
303 S. Water Street
Marine City, MI 48039

RE: ALLEGED CHARTER AND HISTORIC DISTRICT
ORDINANCE CONFLICT

Dear Mr. Gabor:

You have asked for an opinion whether the City Charter prohibition on the creation of independent boards and commissions conflicts with the recently revised Historic District Ordinance, which contemplates the creation of a committee to consider the addition, modification, or elimination of a historic district. I conclude that it does not.

Charter Section 3.18 states in pertinent part as follows:

The Commission may not create any board or commission, other than those provided for in this charter, to administer any activity, department or agency of the city government except (a) those activities which by statute are required to be so administered, (b) a municipal hospital, and (c) recreation. **The Commission may, however, establish (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.** (Emphasis added.)

This provision establishes the general rule that the Commission may not delegate to a board or commission its substantive, policy-making authority. This section provides exceptions, as well. The most relevant, as set forth below, is that the Commission may create advisory boards and commissions. A question has been raised whether the new Historic District Ordinance runs afoul of this Charter mandate in Section 1.5, concerning

the procedure for adding, modifying, or eliminating a historic district.

Section 1.5 of the Historic District Ordinance states in pertinent part as follows:

1.5 Establishing additional, modifying, or eliminating historic districts.

a. The City Commission may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating an historic district, an historic district study committee appointed by the City Commission shall follow the procedures as stated in section 399.203(1-3) of Public Act 169 of 1970, as amended. To conduct these activities, the City Commission may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action. (Emphasis added.)

The ordinance contemplates three different options for considering the issues of addition, modification, or elimination of historic districts: (1) The Commission may retain the initial Historic District Study Committee, which was originally created by the authority of Section 1.4 of the Ordinance; (2) it may create a standing committee charged with evaluating only these issues; or, (3) it may create an *ad hoc* committee to address a particular issue as the need arises. By definition, the committee created by option three would cease to exist as soon as its task was completed.

Is the Commission's choice of any of the three options proposed by Section 1.5 prohibited by Charter Section 3.18? No. Any of the three committees proposed by Section 1.5 would be, as was the original Historic District Study Committee authorized by Section 1.4, merely advisory in nature. The Commission would not be delegating its ultimate decision-making authority to the committee it chooses. The selected

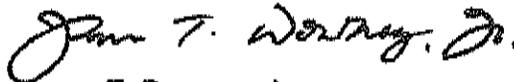
John Gabor
September 2, 2014
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committee would simply conduct the fact-finding concerning a proposed addition, modification, or elimination proposal and author a report making a recommendation to the Commission. The Commission would ultimately determine whether to adopt or depart from the committee's recommendation. As an advisory body, the committee established by Section 1.5 does not violate the City Charter.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

KANE, CLEMONS, JOACHIM AND DOWNEY

A handwritten signature in black ink that reads "James T. Downey, Jr." in a cursive style.

James T. Downey, Jr.

JTD/ns

MICHIGAN HISTORIC
PRESERVATION
NETWORK



August 21, 2014

Mayor Raymond Skotarczyk and City Commissioners
City of Marine City
303 S. Water St.
Marine City, MI 48039

Honorable Mayor Skotarczyk and Commissioners,

My name is Ellen Thackery and I am the Southeast Michigan Field Representative for two organizations—the Michigan Historic Preservation Network and the National Trust for Historic Preservation. I am writing to you about your proposed local historic district ordinance and I am sorry I am unable to read this letter in person at your August 21 Commission meeting.

Our historic places are very important assets in our communities. Our historic places tell the story of our communities, provide community identity, and they help orient both residents and visitors alike. They help attract visitors to our communities and they give us a sense of continuity and shared history, helping to build community. Further, rehabilitating historic buildings is one of the most effective economic development strategies available to a community. Historic buildings perform all of these tasks, fill all of these needs, and they do so sustainably. When we reinvest in our historic buildings, we are curbing sprawl and saving good materials from landfills. For all of these reasons, and many others, our historic buildings are assets worth managing.

A good local historic district ordinance—one in compliance with State law—protects historic places that a community values from demolition and neglect, while still allowing historic buildings to be adapted for new uses. Only exterior historic features are subject to review by the local commissioners, ten Standards are used for the review, and these same Standards are used by local historic preservation commissions across the country. We pass and use such ordinances because we want to protect these places from harm, and there's an additional reason to pass a local historic district ordinance that is compliant with State law. Municipalities that have a State-compliant local historic district ordinance, a district (like the City Hall), and a local historic district commission in place can become National Park Service Certified Local Governments (CLGs). These CLG municipalities can apply for grants for historic preservation work in their community, and these grants are only available to CLGs. A community that does not have an ordinance compliant with State law cannot become certified for the CLG program, and thus cannot access the CLG grant pool. I would encourage you to investigate the CLG program to see

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if it is right for Marine City, and I would encourage you to pass a State-compliant local historic district ordinance that would help you protect your historic places, like your beautiful City Hall. If I can offer any assistance, please contact me. Thank you for your time and consideration!

Sincerely,



Ellen Thackery
Southeast Michigan Field Representative
Michigan Historic Preservation Network and the National Trust for Historic Preservation
info@mhpn.org/ 313.575.5215