



Agenda Item # 7

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: August 9, 2012

SUBJECT: Amendments to Knox County Zoning Ordinance Article 5 *Historical Overlay Zone* (HZ), Section 5.80.06 to conform with Tenn. Code Annotated [§ 13-7 (2012) Title 13, Public Planning And Housing, Chapter 7 Zoning, Part 4 Historic Zoning] regarding the composition and appointment of members to the Knox County Historic Zoning Commission – 8-C-12-OA

REQUEST

The request is initiated by the Knox County Commission via resolution R-12-6-802 in order to bring Knox County zoning ordinance Article 5, *Historic overlay zone* (HZ) into conformance with state enabling legislation regarding the composition and appointment of members to the Knox County Historic Zoning Commission.

BACKGROUND

The state legislation regarding the composition of the Historic Zoning Commission (HZA) membership requires inclusion of a person who is a member of the local planning commission at the time of such person's appointment. This requirement is in addition to the existing and currently implemented HZA membership requirements in the ordinance for a representative of a local historical organization and an architect, if available, with the remainder of members appointed from the community at large.

Section 3.03.H of the ordinance, Part I "Charter", states that the Mayor's duties include the authority to "appoint members of all boards, authorities and commissions not delegated by this Charter to appointment by the Commission."

The appointment of HZA members is not delegated to the Commission in this Section.

ANALYSIS

The appointment of a Metropolitan Planning Commission member to the HZA helps to assure that historic preservation interests and concerns are represented by and integrated into the overall planning process. With representation by a

common member, recommendations from the two commissions impacting historic preservation concerns can be better coordinated.

Additionally, Tennessee courts have consistently ruled that county ordinances that are in conflict with state law, regardless of whether the county is governed by a home rule charter, are universally held to be invalid.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments to Knox County Zoning Ordinance Article 5, *Historical Overlay Zone (HZ)*, Section 5.80.06 in order to bring the ordinance into conformance with state enabling legislation.

Amendment to the Knox County Zoning Ordinance

New language is highlighted and underlined

Deleted language is struck through

Article 5

Section 5.80 HISTORICAL OVERLAY ZONE

5.80.06 Historic zoning commission: creation; appointment of members; term of office; jurisdiction and powers.

For the purpose of enforcing the historic zoning regulations, a historic zoning commission is hereby established, and said commission shall consist of five (5) members, to be appointed by the **Knox County mayor, subject to confirmation by the** Knox County board of commissioners.

The membership of the commission shall consist of a representative of a local patriotic or historical organization; an architect, if available; **a person who is a member of the local planning commission at the time of such person's appointment**; and the remainder shall come from the community in general. Each member shall serve for a term of five (5) years, except, in constituting this body, four (4) members will serve terms from one (1) to four (4) years so that the term of one (1) member will expire each year, with their successors to serve a full term. All members shall serve without compensation. The commission may adopt rules and regulations not inconsistent with title 13 of Tennessee Code Annotated [~~T.C.A. § 13-1-101 et seq.~~] concerning public planning and housing.