

Can another municipal board such as the Planning Board take over and assume the statutory duties of a municipality's Historic District Commission?

AC: I say no. The RSAs state the HDC members must be appointed because they must have expertise in the fields of architecture, preservation, construction, etc. That said, I believe Mason's selectmen act at the HDC...something that strikes me more as an informal arrangement that would not stand up if challenged legally. The NH Municipal Association should have a more concrete answer. One more thing - to dissolve an HDC takes a 2/3 vote. If the planning board is absorbing the HDC's roles, that could be construed as illegally dissolving a commission voted into existence by the town.

Who is responsible for proposing/implementing changes to a municipality's Historic District Ordinance provisions and regulation?

AC: Once The HDC is established and its ordinances (including boundaries) are approved by voters or town/city council, the HDC has the authority to develop its regulations with public hearings, but not necessarily town vote.

Is it proper for the Planning Board to make and propose zoning changes to the Historic District Ordinance without involvement by the Historic District Commission?

AC: If your Historic District is an overlay only, the planning board should not be involved with your ordinance or regulations once approved. In the creation of an HDC or amendments to the ordinances, the planning board will be involved in a public hearing and recommending it to the warrant.

In overlay districts, the planning board would oversee the uses in the district, but not the regulations or design guidelines the HDC has implemented.

Now, there are some gray areas. In towns with no zoning but with HDCs (like Canaan), the HDC also controls uses traditionally overseen by the PB. And in some towns with older zoning ordinances, the HDC may still have the power to regulate zoning within the district. That was the case with Hillsborough recently and I believe Kingston.

What is the duty of other municipal boards such as the Selectmen, Planning Board to inform and involve the Historic District Commission about matters or decisions they are involved in concerning properties in the Historic District?

AC: In an ideal world where small town politics don't run rampant, these bodies should all work in concert. But this is New Hampshire. If your HDC is getting steamrolled and left out of

important decisions, it's possible that both parties share some blame (as tough as that can be to hear).

Ask yourself: is our HDC active and ensuring other town boards know what we do? In Chris Skelly's presentation, his chart showed that HDCs should be spending the least amount of time making design decisions and more time doing outreach, planning, survey, etc. A Planning Board or selectboard hell bent on infuriating HDC members (or library trustees or cemetery trustees - pick the axe to grind) has a harder time winning at their game if that body is appreciated, active, and strong.

That said, sometimes, our town leaders act like petulant children and a gentle (or stern) reminder from the HDC chair, the Attorney General, a land use lawyer, or maybe the NH Municipal Association might be needed. In my experience, the NHMA - with town membership paid by the selectmen - is reluctant to get involved. Likewise, the AG is likely only to get involved with egregious matters. And your HDC might not have money to hire a lawyer.

So it might be up to the HDC. Be a strong voice, attend their meetings, rally support, familiarize yourself with the RSAs. Be respectful but firm.

