



Memorandum

Office of the Village Manager

TO: Honorable President Rutt and Village Council
FROM: Darwin D. P. McClary, Village Manager
DATE: February 6, 2025

RE: **ANALYSIS OF REQUEST TO COMBINE DDA BOARD OF DIRECTORS AND PLANNING COMMISSION**

PURPOSE OF REVIEW

On November 25, 2024, the Lake Orion Village Council adopted a motion to direct the Village Manager to enter a discussion with the DDA Executive Director, to weigh the relative merits of the proposal and make the recommendation to Village Council on what they feel may be in the best interests of the community. Council issued this direction in response to a request from Council Member Michael Lamb that the Village Council consider combining the DDA Board with the Planning Commission as permitted by the Michigan Recodified Tax Increment Financing Act, Public Act 57 of 2018. This memorandum is the product of the direction provided by Council.

REQUEST TO COMBINE BOARDS

In his request, Council Member Lamb provides a statement of merits for considering the combination of the DDA Board with the Planning Commission, including fostering a broader representation of the entire community and government on the board, enhancing communication, better coordination of work, reducing costs and streamlining accounting functions, eliminating duplication of effort by the DDA Executive Director by reporting to one board instead of three, improving compliance, enhancing visibility, and facilitating greater planning staff support. Council Member Lamb's statement is attached as **ATTACHMENT 1.**

REBUTTAL TO REQUEST TO COMBINE BOARDS

DDA Executive Director Matt Gibb and I met on November 26, 2024, to discuss Council Member Lamb's proposal and Council's direction. I requested that Mr. Gibb provide to me in writing his own thoughts on the advantages and disadvantages of the proposal. I received Mr. Gibb's written comments, and they are attached as **ATTACHMENT 2.**

FINDINGS AND RECOMMENDATION

The proposal to combine the two boards appears to stem from a few core concerns: (1) budgetary and spending control; (2) communication and cooperation between the Village and the DDA; and (3) duplication of staffing and/or operations resulting in unnecessary costs. It is my opinion that the Michigan Recodified Tax Increment Financing Act adequately addresses these matters. Under the Act, the Village Council possesses oversight control and budgetary authority. The Council has the authority to establish the Downtown Development Authority as well as to dissolve it. The Council has final appointing authority of all members of the DDA Board. The Council approves the annual budget of the DDA prior to the DDA Board's final adoption of the budget. The Village has approval authority over DDA development projects through its Master Plan, Zoning Ordinance, and Planning Commission site plan and public infrastructure review processes. The extent to which the Village Council's and Planning Commission's authority and control are exerted is the responsibility of those two boards.

Addressing concerns about communication and cooperation between the Village and the DDA, I acknowledge that these could be strengthened. I continue to believe that the connection between the Village and the DDA is not as strong as it should be due to the current structure of appointments to the DDA Board and representation on the DDA Board. State law permits either the Village President or the Village Manager to act as appointing authority for the DDA Board and to serve as a voting member on the Board. Current Village code delegates that responsibility to the Village President. However, elected officials usually lack the detailed knowledge of state law and the complicated concepts of tax increment financing mechanisms to be able to adequately advocate for the Village and provide some level of influence and oversight on the DDA Board. As a result of this lack of knowledge, the Village President risks becoming an advocate of the DDA rather than having the capacity to balance the needs and goals of the DDA with those of the Village government and greater community. To the contrary, the Village Manager possesses this knowledge. The Village Manager position is also the position responsible for preparation of the annual government budget, serving as the community's Zoning Administrator, Act 51 Street Administrator, and advisor to all boards and commissions of the Village. The Village Manager's primary responsibility is to manage the Village government. This unique knowledge, experience, and roles may make the Village Manager the most suitable representative of the Village government on the DDA Board.

Addressing the concerns about duplication of staffing and/or operations resulting in unnecessary costs, it is my opinion that the DDA properly manages its operations and avails itself of available opportunities for efficiencies. I am not convinced that combining the DDA Board and Planning Commission would result in any appreciable reductions in staffing, facilities, equipment, or processes above what is already achieved through the DDA/Village services agreement. The only possible reduction in duplication might be the combination of the DDA offices with the Village offices, but I do not believe that the space limitations at Village Hall would accommodate the needs of the DDA, and, in any event, the cost savings would be relatively minor.

Upon review of the information submitted, I conclude that the interests of the community are best served by maintaining two separate boards, a Downtown Development Authority Board of Directors and a Planning Commission. While the two boards share some common interests, I find that the duties of each may be incompatible in some regards or may dilute the representation of interested downtown property owners and businesses in downtown development and redevelopment decision making. Furthermore, combining the two boards would not address the concerns outlined in Council Member Lamb's proposal.

ATTACHMENT 1

Just common sense to combine DDA Board and Planning Commission 11-25-24

Act 57 provided for the Planning Commission to serve as the DDA Board in addition to their planning duties in communities with a population less than 5,000.

The reason for this provision is that the number of available candidates for these uncompensated volunteer positions are always limited, especially so in smaller communities.

It is suggested that boards and commissions contain members that have qualifications in their life experience, career and education that will support the activities of the group. Another main reason is to provide representation of the varying groups in a community (aka business/residential).

Combining the DDA and Planning Commission would allow us to have both experienced business owners, experienced planning commission members (including builders, planners, engineers) along with elected officials, administration and regular citizens all having a "vote" on the direction our community grows.

The combined board would essentially contain 1/3 elected officials and administration, 2/3 business, planning and community representatives. This combined expertise in governing, business, planning and zoning would facilitate communication, compliance, proper representation and economic efficiency in our local government.

Keywords

Communication – no misunderstandings all functions are in one place

Organization – combined staff, billing, accounting, legal representation, dpw and police services.

Budget – combining government reduces costs, streamlined cost accounting for activities.

Director – more time for Director to get things done instead of presenting ideas to three separate boards.

Compliance - Village staff will participate in operations assisting to avoiding any compliance issues.

Visibility – Everything will be clearly above the board and clearly in the view of the public.

Planning - Planning staff from the Village's consultant would be available at all meetings.

This action will bring this community back together with some good common sense and financial responsibility.

RECODIFIED TAX INCREMENT FINANCING ACT (EXCERPT)

Act 57 of 2018

125.4204 Board; appointment, terms, and qualifications of members; vacancy; compensation and expenses; election of chairperson; appointment as public official; oath; conducting business at public meeting; public notice; special meetings; removal of member; review; expense items and financial records; availability of writings to public; single board governing all authorities; member as resident or having interest in property; planning commission serving as board in certain municipalities; modification by interlocal agreement.

Sec. 204. (1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee from the governing body of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district or officers, members, trustees, principals, or employees of a legal entity having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board. The rules of procedure or the bylaws of the authority may provide that a person be appointed to the board in his or her capacity as a public official, whether appointed or elected. The rules of procedure or bylaws may also provide that the public official's term shall expire upon expiration of his or her service as a public official. In addition, the public official's membership on the board expires on his or her resignation from office as a public official.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) By resolution of its governing body, a municipality having more than 1 authority may establish a single board to govern all authorities in the municipality. The governing body may designate the board of an existing authority as the board for all authorities or may establish by resolution a new board in the same manner as provided in subsection (1). A member of a board governing more than 1 authority may be a resident of or have an interest in property in any of the downtown districts controlled by the board in order to meet the requirements of this section.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to former 1931 PA 285 or the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, serve as the board provided for in subsection (1).

(9) If a municipality enters into an agreement with a qualified township under section 203(7), the membership of the board may be modified by the interlocal agreement described in section 203(7).

History: 2018, Act 57, Eff. Jan. 1, 2019;—Am. 2019, Act 29, Imd. Eff. June 25, 2019.

LIST OF AUTHORITY BOARD AND PLANNING COMMISSION MEMBERS

2024 DOWNTOWN DEVELOPMENT AUTHORITY BOARD

TERESA RUTT, VILLAGE PRESIDENT

DEBORAH BURGESS, CHAIRMAN, BUILDERS CUSTOM FLOORING

SAM CARUSO, VICE CHAIR, CARUSO CHIROPRACTIC EXPIRED

MATTHEW SHELL, TREASURER EXPIRED

HANK LORANT, SECRETARY, DDA RESIDENT

LLOYD COE, BOARD MEMBER, ED'S BROADWAY GIFT & COSTUME

SALLY MEDINA, BOARD MEMBER, BROADWAY EMBROIDERY

ALAINA CAMPBELL, BOARD MEMBER, COOKIES & CREAM

CHRIS BARNETT, ORION TOWNSHIP SUPERVISOR EXPIRED

2024 PLANNING COMMISSION BOARD

JERRY NARSH, VILLAGE PRESIDENT EXPIRED

MICHAEL LAMB, VILLAGE COUNCIL MEMBER EXPIRED

DARWIN MCCLARY, VILLAGE MANAGER

JAMES ZSENYUK, CHAIRPERSON

GEORGE DANDALIDES, VICE CHAIRPERSON EXPIRED

HANK LORANT, SECRETARY

EDWARD SABOL, COMMISSIONER EXPIRED

LARRY DUNN, COMMISSIONER

VACANT, COMMISSIONER

2025 NEW COMBINED BOARD

TERESA RUTT, VILLAGE PRESIDENT

_____, VILLAGE COUNCIL MEMBER

DARWIN MCCLARY, VILLAGE MANAGER

JAMES ZSENYUK, CHAIRPERSON

_____, VICE CHAIRPERSON

HANK LORANT, SECRETARY

EDWARD SABOL, COMMISSIONER

_____, COMMISSIONER

_____, COMMISSIONER

Darwin McClary

From: Michael Lamb
Sent: Wednesday, November 13, 2024 9:24 AM
To: Darwin McClary
Subject: agenda request revision

Darwin can you please use this revised text for my agenda request. I believe it is clearer and less confrontational.

Thank you, Mike Lamb

Dear Mr. McClary,

I would like to add this item to the next council agenda for discussion.

I believe that a lot of past issues regarding DDA practices, relationships, spending, and budget could be resolved/improve by combining the DDA Board with the Planning Commission as provide for in **PA 57** of 2018.

There would be an increase in communications and cooperation by having the Planning Commission as the DDA Board which includes the Village President, one council member and the Village Manager as voting members. An additional benefit is that it provides for more representation by all the tax payers.

Currently, the DDA maintains a separate staff, offices, legal representation, phone system, etc. apart from the Village. In essence a duplication of costs. The cost savings of combining governmental services is beneficial to the tax payers.

Currently communications between Council and Authority are though DDA minutes and the Village Council Presidents attendance at the the DDA meetings. (no required report to Council). The Village Manager is not a member and has no vote on the DDA items.

Attached is a copy my correspondence with the previous Village Manager and the Ordinances from the Village of Vicksburg which effected the changes to their governing structure.

Thank you for your cooperation in this matter.

Michael Lamb

Michael J. Lamb, Councilman
Village of Lake Orion
Memorandum

Date: 9-24-21

To: Joe Young, Village Manager

Subject: Are there any comparable communities that have consolidated the DDA with the Planning Commission

Dear Joe,

The question was asked, "are there any comparable communities that have consolidated the DDA with the Planning Commission". The answer is yes. Vicksburg Michigan had a similar demographic, population, waterfront and historical nature.

The Village of Vicksburg has had a similar situation with their DDA and DDA District which was resolved by means of amendment to various ordinances moving their DDA responsibilities to their Planning Commission. After a phone call with Mr. Jim Mallory, Village Manager, 269-365-8391, it was apparent the situations were quite similar.

Mr. Mallory granted me permission to quote him directly, however my notes are not that precise, so I encourage you to call him. His comments were well organized and he spoke with conviction. I have no doubt he can assist you in bringing clarity to your thoughts on this issue.

The following include my recollections of portions of the conversation. I am not asserting that Mr. Mallory's comments regarding the Vicksburg DDA are a reflection of the VLO DDA, only that there are similarities in the issues. After the discussion, I am convinced we would be moving in the correct direction. Additionally, his opinion is that we have a situation of incompatible governmental offices within our current DDA Board.

Mr. Mallory indicated that their DDA had become focused on power and money. Things were not getting done. Funds were not being used with fiscal responsibility. Opinions had become passionate; claims were made by DDA members that it was "the DDA's money". Their DDA district had been expanded to include non-downtown areas drawing on funds that belonged elsewhere in the community. His comment was that all of the funds are tax revenues of the people and should be used appropriately with fiscal responsibility.

Mr. Mallory's initiative to bring the DDA District into their Planning Commission was successful. Their Council passed the attached resolutions and within 90 days their newly reorganized Planning Commission was able to take affirmative action in moving projects forward and setting initiatives in motion. Their Planning Commission was expanded to 9 members to include business owners whom were not residents of their Village. Mr. Mallory stated that the level of efficiency and effectiveness of the new organization was greatly increased and that a win had occurred for all involved. Their DDA district was subsequently revised and they are moving full speed ahead with a vibrant and growing downtown.

Attached are various ordinances, minutes, etc.

VILLAGE OF VICKSBURG**ORDINANCE NO. 292****AN ORDINANCE AMENDING CHAPTER 82, ARTICLE II, DIVISION 4 OF THE
VILLAGE OF VICKSBURG CODE OF ORDINANCES,
THE PLANNING COMMISSION**

The Village of Vicksburg hereby ordains:

SECTION 1. Chapter 82, Article II, Division 4

Chapter 82, Article II, Division 4 of the Vicksburg Code of Ordinances, entitled *Planning Commission*, shall be amended in its entirety to read as follows:

Section 82-101. Establishment

- (a) Pursuant to the requirements and authority of the Michigan Planning Enabling Act (Act 33 of 2008) and the Michigan Zoning Enabling Act (Act 110 of 2006), the Village Council hereby establishes a planning commission consisting of nine (9) members which shall replace the existing planning (zoning) commission.
- (b) The Village president shall appoint members of the planning commission, subject to approval by a majority vote of the members of the Village Council.
- (c) Each member of the planning commission shall serve a three (3) year term. The initial appointment of members shall be for periods of one (1), two (2), and three (3) years as determined by the Village Council. The Village Council may appoint up to three (3) ex officio members to the planning commission.
- (d) Members of the planning commission shall be qualified electors of the local unit of government except that two (2) members of the planning commission need not be qualified electors of the local unit of government.
- (e) The planning commission shall adopt Bylaws of the planning commission upon the approval of same by the Village Council.

Section 82-102. Authority, powers and duties

- (a) The planning commission shall have all authority, power and duties identified by the Michigan Planning Enabling Act as well as those powers and duties identified and transferred from the previous

planning (zoning) commission pursuant to the Michigan Zoning Enabling Act. In the event that any provision of the Village's zoning ordinance conflicts with the Michigan Planning Enabling Act, the provisions of the Michigan Planning Enabling Act shall control.

- (b) the planning commission shall have all zoning authority specifically provided by the Michigan Planning Enabling Act and those powers and duties transferred from its role pursuant to the Michigan Zoning Enabling Act.

Section 82-103. Officers

The planning commission shall elect at its first meeting of the year, a chair, vice-chair and secretary to serve for terms of one (1) year.

Section 82-104. Compensation

Planning commission members shall be compensated in amounts established by resolution by the Village Council.

Section 82-105. Oath of office

All planning commission members shall take an oath of office in a form approved by the Village Council.

Section 82-106. Adoption and incorporation of amendments to the Michigan Planning Enabling Act and other relevant statutory provisions.

All applicable amendments to the Michigan Planning Enabling Act and any other relevant statute shall be incorporated in this division by reference and shall supersede the statutes that they amend or replace.

Section 82-107. Planning Commission serving as DDA Board

Pursuant to the Michigan Planning Enabling Act, the planning commission shall concurrently serve as the board of the Village of Vicksburg Downtown Development Authority and shall have all authority and duties of the DDA board as set forth in the Recodified Tax Increment Financing Act (Act 37 of 2018).

SECTION 2. Continuation of Planning Commission.

Nothing in this Ordinance shall be interpreted as a discontinuation of the Village planning (zoning) commission. The planning commission shall be and remain constituted in accordance with and shall have all of the powers and duties set forth in the Michigan

Planning Enabling Act (Act 33 of 2008) as amended from time to time, those powers and duties previously set forth in the Michigan Zoning Enabling Act (Act 110 of 2006) and in this Ordinance. No matter pending before the planning commission as of the effective date of this ordinance shall be affected in any way by the fact that the planning commission is being reconstituted by this Ordinance. All such pending matters shall be carried forward under the planning commission at the same status as existed prior to the effective date of this Ordinance.

SECTION 3. Severability.

If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are declared severable.

SECTION 4. Effective date.

This Ordinance and the related rules, regulations, provisions, requirements, orders and matters established shall take effect immediately upon publication, except any penalty provisions, if any, which shall take effect twenty (20) days after publication, pursuant to MCL 66.1.

SECTION 5. Repealer.

All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Clerk's Certification

I, Tracy L. Locey, Village Clerk of the Village of Vicksburg, certify that at a regular meeting of the Village Council held on November 4, 2019 at 7:00 p.m., at MP8 Building, 13326 N. Boulevard, Vicksburg, Michigan at which the following members were present:

Trustees: Bill Adams, Colin Bailey, Tim Frisbie, Rick Holmes, Carl Keller, Julie Merrill, and Gail Reisterer

Absent: None.

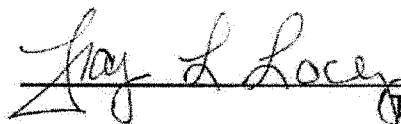
The Council enacted Ordinance #292 to become effective immediately upon publication and that the members of the Council present at the meeting voted on the adoption of the Ordinance as follows:

Motion: Frisbie

Support: Reisterer

Ayes: Adams, Bailey, Frisbie, Holmes, Keller, Merrill, and Reisterer

Nays: None.



Tracy L. Locey, Clerk



MINUTES

- I. Call to Order – President Adams called the meeting to order at 7:00 pm.
- II. Pledge of Allegiance: The Pledge of Allegiance was recited.
- III. Moment of Silence: Those willing and present took a moment of silence.
- IV. Roll Call: The following members were in attendance: Trustees: Bill Adams, Colin Bailey, Tim Frisbie, Rick Holmes, Carl Keller, Julie Merrill, and Gail Reisterer. Also, in attendance were: Village Manager Jim Mallery, Director of Community Engagement Alex Lee, Clerk Tracy Locey, Treasurer Michelle Morgan, DPW Chad Schippers and Police Officer Taylor Herrick.
- V. Approval of Agenda – Items 11a. Budget Amendments and 12. Director of Community Engagement Report were removed from the agenda. Frisbie moved, seconded by Reisterer to approve the agenda as amended. Motion carried 7-0.
- VI. Scheduled Appearances
 - a. Resolution 11-04-2019 Recognition of Dana Downing – Lee read the resolution aloud. Mallery and Adams presented Downing a copy of the Resolution. Keller moved, seconded by Reisterer to adopt the Resolution as presented. Motion carried 7-0 with a roll call vote.
- VII. Public Official Appearances – None.
- VIII. Citizen's Comments for agenda items – None.
- IX. Approval of General Consent Agenda – Keller moved, seconded by Reisterer to amend the dates on the agenda for the event requests from 2019 to 2020. Motion carried 7-0. Keller moved, seconded by Merrill to approve the consent agenda as amended. Motion carried 7-0 with a roll call vote.
 - a. Minutes of the Regular Council Meeting: October 18, 2019
 - b. Warrant Reports: Mercantile \$141,106.71
 - c. Event Requests
 - i. Trimble Vicksburg Graduation – June 7, 2019 2020
 - ii. Vicksburg United Church 150th Year – July 12, 2019 2020Correspondence – None

X. Council Action Items

- a. Ordinance 291; Amendments to the Village of Vicksburg Ordinance, Chapter 18, Article II, Division 1 adding Section 18-38 Planning Commission serving as DDA Board – Mallery addressed the Council stating the proposed Ordinances and By-Laws are required as part of the initiative to appoint the Planning Commission to act as the board of the Downtown Development Authority. State of Michigan statute requires ordinances to update and accommodate the new assignment of duties.
- b. Ordinance 292; Amendments to the Village of Vicksburg Ordinance, Chapter 18, Article II, Division 4 in its entirety;
- c. Ordinance 293; Adding an Ordinance to Appoint the Village of Vicksburg Planning Commission as the Downtown Development Authority;
- d. Consider Adoption of Planning Commission Amended By-Laws and Rules of Procedure;
 - a. Open Public Hearing – Keller moved, seconded by Bailey to open the public hearing at 7:07 pm.
 - b. Receive Written and Verbal Comments – John DeBault, current Chairperson of the DDA, inquired on his duties once the PC assumes the duties of the DDA. Mallery stated the PC will become responsible for the oversight of the DDA and its operations. Sub-committees may be formed to carry out the various projects of the DDA, but will be at the discretion of the PC. Keller inquired on the residency requirements of the PC membership. Mallery reviewed the State of Michigan statute for PC membership. Adams inquired on the compensation for DDA versus PC members. Mallery along with Attorney Horne stated PC members will continue to receive a stipend as is allowable by statute. DDA members are not allowed to be compensated. The PC members will continue to be compensated. DeBault stated the DDA has made great progress over the past few years and would like to continue to be involved and continue its success. Horne stated the ordinance will assign the duties for both the PC and DDA to the Chairperson/officials of the PC.

Denny Olsen would like to see the Christmas in the Village and façade programs continue. Mallery envision the programs continuing. Frisbie stated there is no intention of doing away with the DDA's great strides. Holmes would like to see an increase funding in the façade grant program.

- c. Close Public Hearing – With no further written or verbal comments, Frisbie moved, seconded by Keller to close the public hearing. Motion carried 7-0.
- d. Consider Adoption
 - 1. Ordinance 291 – Frisbie moved, seconded by Reisterer to adopt Ordinance 291 as presented. Motion carried 7-0 with a roll call vote.
 - 2. Ordinance 292 – Frisbie moved, seconded by Reisterer to adopt Ordinance 292 as presented. Motion carried 7-0 with a roll call vote.
 - 3. Ordinance 293 – Frisbie moved, seconded by Reisterer to adopt Ordinance 293 as presented. Motion carried 7-0 with a roll call vote.
 - 4. By Laws and Rules of Procedure for the Village of Vicksburg Planning Commission – Frisbie moved, seconded by Reisterer to adopt the By-Laws as presented. Motion carried 7-0 with a roll call vote.
- b. Consider Approval of SKCFA 2020-2021 Budget – Bailey stated the estimated amount due from the Village of Vicksburg decreased by approximately \$2,000. Frisbie inquired on the timing of the budget. Locey stated SKCFA's fiscal year is April – March. The budget is prepared and presented 5 months in advance so the participating entities can prepare their respective budgets. Final allocation numbers will be available in January. Bailey recommends the approval the budget as presented. Holmes moved, seconded by Keller to approve the 2020-2021 budget as presented. Motion carried 7-0 with a roll call vote.
- c. Resolution 11-04-2019-2 Authorizing Signors to the State of Michigan Department of Transportation Contract 15-5509 – Mallery read the resolution authorizing Mallery to execute MDOT contract 15-5509. Keller moved, seconded by Merrill to adopt the resolution as presented. Motion carried 7-0 with a roll call vote.

XI. Village Manager Report

- a. Loader Tires – Mallery requested four tires in the amount of \$7,745.90 for the 2009 loader. The tires will be mounted and balanced by Goodyear Commercial Tire and Service Center of Kalamazoo through the MI-Deals program. Frisbie moved, seconded by Bailey to approve the expense as requested. Motion carried 7-0 with a roll call vote.

- b. Website/Hardware Proposal – Mallery provided an update on the website/streaming project. The amount of the contract was below \$3,500 therefore in accordance with the Village's purchasing policy is at the discretion of the Village Manager. In January 2020 the streaming portion of the project is expected to go live. Lee stated he feels the project is progressing on schedule.

XII. Department/Committee Reports

- a. South Kalamazoo County Fire Authority – No further update than the budget.
- b. Downtown Development Authority – The Christmas in the Village event is moving along well. It will be bigger and better than last year with several new surprises. There are five façade grant recipients that have completed their projects. The regular meeting has been rescheduled to November 7th at Main Street Pub beginning at 5 pm. A public information/open house will begin at 6 pm.

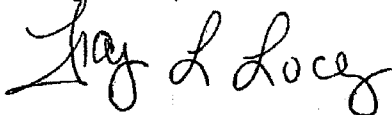
XIII. Citizen's Comments – None.

XIV. Council President/Members Time

- a. Adams recommended the public attend he DDA meeting and reminded people to vote in tomorrow's election.

XV. Adjournment - With there being no further business, the meeting was adjourned at 7:55 pm.

Respectfully Submitted,



Tracy L. Locey
Village Clerk

**Village of Vicksburg
Ordinance No. 293**

**ORDINANCE TO APPOINT THE VILLAGE OF VICKSBURG PLANNING
COMMISSION AS THE DOWNTOWN DEVELOPMENT AUTHORITY**

SECTION 1. The Village of Vicksburg Planning Commission (hereinafter referred to as the "Planning Commission") was previously constituted pursuant to the *Michigan Zoning Enabling Act*, Public Act 110 of 2006, as amended, MCL 125.3101 *et seq.* and the *Planning Enabling Act*, Public Act 33 of 2008, as amended, MCL 125.3801 *et seq.*

SECTION 2. The Planning Commission shall henceforth serve as the Board of the Village of Vicksburg Downtown Development Authority (hereinafter referred to as "DDA"), pursuant to MCL 125.4204(8). The term of each DDA member shall be the same as their term in office as a member of the Planning Commission. A DDA member may be removed under the procedure proscribed for removing a Planning Commission member.

SECTION 3. The Village President shall appoint the nine (9) members of the Planning Commission/DDA, subject to approval by a majority vote of the members of the Village Council. The Planning Commission and DDA shall be comprised of members of the community or surrounding communities as regulated by the *Planning Enabling Act*, Public Act 33 of 2008, as amended, MCL 125.3801 *et seq.*

SECTION 4. The Chairperson and all officers of the Planning Commission shall hold the same titles on the DDA. The Planning Commission and DDA shall hold at least one regular meeting in each quarter of the year or special meeting as needed. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. All meetings shall be noticed and recorded in accordance with the *Open Meetings Act*, Public Act No. 267 of 1976, as amended.

SECTION 5. Members of the DDA shall serve without compensation, but may be reimbursed for actual and necessary expenses in an amount and manner as proscribed by the Village Council. Members of the Planning Commission shall be compensated as outlined by resolution of the Village Council.

SECTION 6. The DDA shall have such powers and duties as are granted to the Village DDA by the statutes of the State of Michigan and any Ordinance of the Village including, but not limited to, those powers and duties provided in the Recodified Tax Increment Financing Act, Act 57 of 2018, being MCL 125.4101 *et seq.*

SECTION 7. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Village of Vicksburg declares that it would have passed this Ordinance and each section,

subsection, clause, or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared unconstitutional.

SECTION 8. That this Ordinance and the related rules, regulations, provisions, requirements, orders and matters established shall take effect immediately upon publication, except any penalty provisions which shall take effect 20 days after publication, pursuant to MCL 66.1; MSA 5.1271.

SECTION 9. Repealer – All prior Ordinances, or parts of Ordinances, in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

SECTION 10. Notice – Within 14 days of the adoption of this Ordinance, the Village Clerk shall transmit a copy of this Ordinance to the Michigan Secretary of State's Office of the Great Seal.

Clerk's Certification

I, Tracy L. Locey, Village Clerk of the Village of Vicksburg, certify that at a regular meeting of the Village Council held on November 4, 2019 at 7:00 p.m., at MP8 Building, 13326 N. Boulevard, Vicksburg, Michigan at which the following members were present:

Trustees: Bill Adams, Colin Bailey, Tim Frisbie, Rick Holmes, Carl Keller, Julie Merrill, and Gail Reisterer

Absent: None.

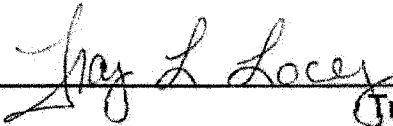
The Council enacted Ordinance #293 to become effective immediately upon publication and that the members of the Council present at the meeting voted on the adoption of the Ordinance as follows:

Motion: Frisbie

Support: Reisterer

Ayes: Adams, Bailey, Frisbie, Holmes, Keller, Merrill, and Reisterer

Nays: None.



Tracy L. Locey, Clerk

VILLAGE OF VICKSBURG

ORDINANCE NO. 291

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE II, DIVISION 1 OF THE
VILLAGE OF VICKSBURG CODE OF ORDINANCES,
DOWNTOWN DEVELOPMENT

The Village of Vicksburg hereby ordains:

SECTION 1. Modifications

Section 18-31 of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances shall be amended in its entirety to read as follows:

Sec. 18-31. Definitions.

All words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in the Recodified Tax Increment Financing Act (Act 57 of 2018)

Section 18-32 of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances shall be amended in its entirety to read as follows:

Sec. 18-32. Adoption of Public Act 57 of 2018 by reference.

The downtown development authority is hereby created and established pursuant to the terms and provisions of Act No. 57 of the Public Acts of Michigan of 2018, which act is adopted by reference.

Section 18-33 of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances shall be amended in its entirety to read as follows:

Sec. 18-33. Meanings of references in Act 57 of 2018.

Reference in Act 57 of 2018 to the term *chief elected officer* or *chief executive officer* shall mean the president of the Village.

Reference in Act 57 of 2018 to the term *chief administrative officer* shall mean the Village manager.

Reference in Act 57 of 2018 to the term *governing body of a municipality* shall mean the Village Council.

Reference in Act 57 of 2018 to the term *municipality* shall mean the Village of Vicksburg.

Section 18-35 of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances shall be amended in its entirety to read as follows:

Sec. 18-35. Amount of bond for director of board.

The board, which is the governing body of the Village Downtown Development Authority, may have a director, who shall be appointed by the Village president upon approval of the Village Council, and who shall serve at the pleasure of the board. A bond shall be furnished by or on behalf of the Director as determined by resolution of the Village Council.

Section 18-38 of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances shall be added and shall read as follows:

Sec. 18-38. Planning Commission serving as DDA Board

Pursuant to the Michigan Planning Enabling Act, the planning commission shall concurrently serve as the board of the Village of Vicksburg Downtown Development Authority and shall have all authority and duties of the DDA board as set forth in Act 57 of 2018.

SECTION 2. Sections not amended.

All sections of Chapter 18, Article II, Division 1 of the Vicksburg Code of Ordinances not amended herein shall remain in full force and effect.

SECTION 3. Continuation of Downtown Development Authority.

Nothing in this Ordinance shall be interpreted as a discontinuation of the Village Downtown Development Authority. The Downtown Development Authority shall be and remain constituted in accordance with and shall have all of the powers and duties set forth in Act 57 of 2018) as amended from time to time and in this Ordinance.

SECTION 4. Severability.

If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are declared severable.

SECTION 5. Effective date.

This Ordinance and the related rules, regulations, provisions, requirements, orders and matters established shall take effect immediately upon publication, except any penalty provisions, if any, which shall take effect twenty (20) days after publication, pursuant to MCL 66.1.

SECTION 6. Repealer.

All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Clerk's Certification

I, Tracy L. Locey, Village Clerk of the Village of Vicksburg, certify that at a regular meeting of the Village Council held on November 4, 2019 at 7:00 p.m., at MP8 Building, 13326 N. Boulevard, Vicksburg, Michigan at which the following members were present:

Trustees: Bill Adams, Colin Bailey, Tim Frisbie, Rick Holmes, Carl Keller, Julie Merrill, and Gail Reisterer
Absent: None.

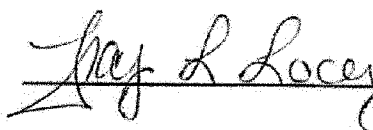
The Council enacted Ordinance #291 to become effective immediately upon publication and that the members of the Council present at the meeting voted on the adoption of the Ordinance as follows:

Motion: Frisbie

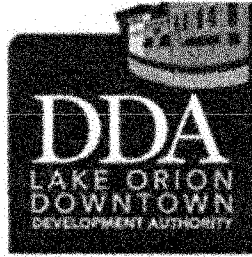
Support: Reisterer

Ayes: Adams, Bailey, Frisbie, Holmes, Keller, Merrill, and Reisterer

Nays: None.


Tracy L. Locey, Clerk

ATTACHMENT 2



MEMORANDUM

To: Village of Lake Orion Council President
Copied to the Village Manager

From: Matthew Gibb, Executive Director

Dated: December 11, 2024

RE: REQUEST TO DISSOLVE THE DDA BOARD INTO THE VILLAGE PLANNING COMMISSION

The following discussion points support the on-record advice and conclusion that Councilman Lambs request to dissolve the DDA Board structure into a renewed, and expanded, Village Planning commission is unfounded and without merit. To do so would cause substantial harm in the growth and sustainability of the Village.

1. The Key Differences Between a Planning Commission and a DDA make this Impractical and will result in a Negative Approach to Economic Sustainability in Lake Orion.

Differences Purpose and Scope

- **Planning Commission:** Primarily responsible for creating and maintaining a master plan, reviewing land use, and ensuring that developments align with zoning ordinances. Its focus is regulatory and policy-driven.
- **DDA:** Focused on economic development, business promotion, and infrastructure improvements within a defined downtown district. It is an implementation body tasked with fostering growth and revitalization.

Differences in Skill Sets and Expertise

- Planning commissions are typically composed of individuals with backgrounds in urban planning, architecture, or zoning law.
- DDA boards require members who understand business development, marketing, and economic growth strategies. The two roles demand distinct expertise.

Differences in Mission and Approach

- Planning commissions adopt a long-term, regulatory perspective to ensure orderly growth.
- DDAs focus on immediate, actionable projects, such as marketing campaigns, special events, and infrastructure upgrades. The missions may occasionally align but are fundamentally different.

2. The Operational Challenges of Combining Functions Precludes the Transition.

Combining the size and directional scope of each entity results in an ongoing Conflict of Interest

- Combining the two roles can create conflicts. For example, the planning commission could be reviewing plans for developments it also financially supports as the DDA board, leading to a perception of bias or self-interest. Changes to Master Plan, Ordinance Enforcement, and other planning based regulations emanated from the Planning commission but are often challenged and debated by the DDA in support of interests outside the scope of the Planning Commission. Tax Abatements, deviations from ordinance, and PUB public benefit all present conflicting argumentative positions.

Dilution of Focus

- Planning commissions already have a full workload related to land use and zoning. Adding DDA responsibilities may dilute their ability to perform their primary regulatory functions effectively.
- The time commitment and duties of the DDA Board includes an average of three (3) regular and special meetings, sitting on sub-committees, attendance at business and community meetings, volunteer support, personal fundraising and financing of events and projects, and the multiple duties outlined in the Main Street functions detailed below.

Loss of Specialized Knowledge

- A DDA board brings together diverse stakeholders, such as business owners, property owners, and residents, ensuring the downtown district has focused, specialized attention. Replacing this with a planning commission risks losing this diversity and specialization.

3. The Legal and Structural Basis would require a Complete Reorganization and Ordinance, placing the TIF/Bond at Risk.

Statutory Distinctions

- In Michigan, DDAs are governed by the **Downtown Development Authority Act (Act 197 of 1975)**, which outlines specific roles, powers, and funding mechanisms (e.g., tax increment financing, or TIF).
- Planning commissions operate under the **Michigan Planning Enabling Act (Act 33 of 2008)**, which provides a separate legal framework. Combining the two bodies may create statutory conflicts and administrative confusion.
- The Downtown Development Authority Act, MCL 125.4201 Et. Seq. ("DDA Act"), at MCL 125.4204 states that an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her

designee from the governing body of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality.

"(1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee from the governing body of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. . ." (MCL 125.4204) (Emphasis Added)

The DDA Act, at MCL 125.4201, defines a "Governing body of a municipality" to mean an elected body of a municipality having legislative powers. Here, that is the Village Council.

"(q) "Governing body of a municipality" means the elected body of a municipality having legislative powers." (MCL 125.4201) (Emphasis Added)

The DDA Act, at MCL 125.4204, later states that by ordinance the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to former 1931 PA 285 or the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, serve as the board provided for in the DDA Act at MCL 125.4204(1).

"(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to former 1931 PA 285 or the Michigan planning enabling act, 2008 PA33, MCL 125.3801 to 125.3885, serve as the board provided for in subsection (1)." (MCL 125.4204) (Emphasis Added)

Thus, in order for a Planning Commission to serve as a board for a DDA, there are at least three requirements that must be put in place. First, the municipality must have a population of less than 5,000. Second, the "governing body" must enact an ordinance. Third, the Planning Commission must have been created pursuant to former 1931 PA 285 or the Michigan planning enabling act, 2008 PA 33 being MCL 125.3801 to 125.3885.

Funding and Accountability

- DDAs manage funds through TIF, which requires a transparent, accountable process. Planning commissions may lack the financial oversight structures necessary to manage these funds effectively and appropriately.

Community Representation

- DDA boards are typically composed of members who represent the downtown district's unique interests, such as business owners and property owners. Planning commission members are not necessarily representative of the downtown community and may not adequately address their needs.

4. The Risks and Consequences of Combining Functions Outweigh the stated Goal of the Request.

Reduced Effectiveness in Economic Development

- Without a dedicated board focusing on economic growth and revitalization, the downtown district may stagnate. Planning commissions do not have the resources or time to coordinate events, market the district, or engage businesses.

Negative Impact on Business Community

- Business owners and investors may perceive a lack of commitment to downtown development, leading to reduced investment and participation in improvement efforts.

Loss of Public Trust

- Combining the roles may appear to the public as a consolidation of power, reducing checks and balances. This could undermine trust in both the planning commission and the DDA.

5. The Village Planning Commission is neither created nor suited to Work as the Board for the Nationally Accredited Main Street Program, a vital aspect of the engagement and commitment of the Dda Board.

Collectively, the board of directors assumes legal and philosophical responsibility for the Main Street Organization's activities. It must educate, build consensus, stimulate action in the commercial district, and involve volunteers in the revitalization process. As the direction of the program evolves and creates new opportunities, the Board's role in each of these areas may change. There are, however, certain basic responsibilities that remain constant throughout the life of the organization: The board is ultimately responsible and accountable for the Main Street Organization. Although it may delegate daily management to the executive director and committees, it cannot delegate the review of the program's budget and plans or the monitoring and evaluation of the program's effectiveness. Those tasks remain board responsibilities. The board must always represent the larger view of why commercial district revitalization is crucial for the entire community.

It serves as a private-sector advocate for the Main Street Organization's interests and works to ensure the community has a comprehensive understanding of Main Street Organization's principles of revitalization. The Board is also responsible for fostering community acceptance of and involvement in the process and ensuring private-sector commitment and participation in the revitalization effort. The board must maximize volunteer involvement in the revitalization program.

Jointly, the Board is responsible for the following aspects of the program:

- Policy
- Funding and Financial Management
- Personnel
- Committee Oversight
- Planning & Doing
- Monitoring, Evaluating and Communicating Value

Expectations of Main Street Board Members WHICH WOULD BECOME THOSE OF PLANNING COMMISSIONERS

- a. Fund raising and collecting the funds needed to operate the program. This is not the Executive Director's responsibility.
- b. Supports board decisions even when he/she may disagree with the majority, OR WHEN A DECISION IS CONTRARY TO THE MISSION AND PLAN OF THE Village Master Plan or Ordinance.
- c. Understands the mission of the Main Street organization and promotes its goals and activities to the community.
- d. Attends and actively participates in board meetings.
- e. As often as possible, attends the training programs and workshops held by the state, coordinating program and the National Main Street Center as well as any other organization providing relevant training.
- f. Contributes knowledge, financial resources and labor to the Main Street organization
- g. Respects the need for the Executive Director to report to only one "boss".
- h. Offers opinions honestly, constructively and without reservation.
- i. Delegates responsibility to project committees or to the Executive Director when appropriate.
- j. Promotes unity within the organization and seeks to resolve internal conflicts.
- k. Encourages orderly, systematic, and incremental implementation of the Main Street organization's transformation strategy(ies), while discouraging the board from becoming distracted by secondary issues or projects not included in the annual strategic plan.\
- l. Encourages staff and other board members to express their opinions openly in board meetings.
- m. Remains loyal to the Main Street organization and honors his/her commitment to it.

Alternative Solutions

1. Streamlining Coordination

- Instead of merging the two entities, improve collaboration between the planning commission and the DDA by holding joint meetings or creating an enhanced liaison role.

2. Enhancing the DDA

- Strengthen the existing DDA board by recruiting members with relevant expertise and ensuring its actions align with the master plan developed by the planning commission.

3. Educating Stakeholders

- Provide training for both the planning commission and the DDA board to clarify their roles and responsibilities and demonstrate how they complement one another.

Conclusion

Combining the Planning Commission and the Downtown Development Authority undermines the effectiveness of both bodies. Each serves a distinct purpose, requires specialized knowledge, and operates under different legal frameworks. Instead of merging, the village council should focus on fostering collaboration and ensuring that both entities have the resources they need to fulfill their missions.