

REQUEST FOR LEGAL SERVICES

TO: County Attorney's Office
Attention: Breezi Hicks (Drawer No. AT01)

From: Myrtice Young *MG*, Ext. 4385

Dept: Parks and Natural Resources, (Drawer No. PW06)

Date: October 16, 2024

Request (In detail):

Review attached letter outlining and confirming revisions required by the National Parks Service for Polk County's Certified Local Agreement Application. Review in preparation for signature of the Chairman of the Board of County Commissioners for transmittal of revisions to the National Park Service.

Dates/Documents of Significance:

12/5/2023 - Ordinance 2023-076 (Historic Preservation) by Polk County Board of County Commissioners
5/2/2024 - CLG Application Signed by W.C. Braswell, Chairman, Polk County BoCC and transmitted to Division of Historical Preservation
6/24/2024 - Acknowledgment from Bureau of Historic Preservation as to receipt of CLG application and request for CLG Agreement
8/7/24 - BoCC Agreement executed by Bill Braswell and transmitted to State
10/15/24 - Response from State on National Park Services CLG Certification
Revisions needed to Application

For County Attorney office-use only:

Assign to: *Breezi*
County Attorney Project No.: *2024-640*
Logged out: *10-21-24*

County Attorney

Date: *OCT 17 2024*

10/21/2024-The letter is OK to sign we need to begin the process of amending the ordinance to align with the requirements of the National Park Service

Sherrouse-Murphy, Lois

From: Young, Myrtice
Sent: Tuesday, October 15, 2024 3:49 PM
To: Graham, Shannon; Sherrouse-Murphy, Lois
Subject: FW: Written CLG Certification Revisions
Attachments: pre-certification revisions.docx

This is our CLG project.

Myrtice

From: Smith, Tyler <Tyler.Smith@dos.fl.gov>
Sent: Tuesday, October 15, 2024 3:10 PM
To: Young, Myrtice <myrticeyoung@polk-county.net>
Cc: Lucas, Kyra <Kyra.Lucas@dos.fl.gov>
Subject: [EXTERNAL]: Written CLG Certification Revisions

It was great meeting with you both today! Attached is the certification revision file.

Best,
Tyler

Tyler J. Smith

Certified Local Government Coordinator | Bureau of Historic Preservation | Florida Department of State | 500
South Bronough Street | Tallahassee, Florida 32399 | Tyler.Smith@dos.fl.gov | (850) 245-6341
| dos.fl.gov/historical/

1. The Certification Agreement is not dated. Please provide the date that each party signed the Certification Agreement. A written response in an email format with the date is sufficient for our records.

We discussed this with NPS and explained that we as a state agency legally cannot sign it and enter into that agreement until AFTER the NPS has certified it.

Action to Resolve: SHPO explains this in the transmittal letter and agrees to send dated versions upon certification and signatures.

2. Polk County Ordinance, Section 3: "The Advisory Board will consist of nine (9) members of the Historical Commission appointed by the Board of County Commissioners." This is not in compliance with federal statutory minimum requirements.

The National Historic Preservation Act (NHPA) requires that the chief elected local official appoint CLG Commission members unless State or local law provides for appointment by another official. Polk County's ordinance states that the Board of County Commissioners appoints the Historical Commission members. The Board is not an official. That said, as long as the Board's Chairperson signs the relevant documents (as has done for the certification agreement), there is not a problem. There are also other potential options. See below. This also applies to filling vacancies on the Historical Commission. Having the Chairman of the Board as the person who signed the Certification Agreement as the chief elected local official also sign the appointment documents seems like the easiest solution to us. Because the Certification Agreement also references the need to meet federal program requirements, there is no need to revise the local ordinance to resolve this issue. If you can that satisfies the requirement, and we ought to be able to resolve this topic.

Action to Resolve: 1) confirm in writing that the Chairman of the Board is the chief elected official and will sign the commission appointment documents and 2) updated the ordinance in the future to reflect the need to have the chief elected official appoint the board members.

3. Section 7 of the application for certification states "the commission is comprised of both professionals in the fields of history and lay persons with mixed interests in historic preservation, history, and other related disciplines." It was not clear if all members of the Advisory Board have a demonstrated interest, competence, or knowledge in historic preservation per 36 CFR 61.6(e)(2). Your checklist, which is quite good by the way, states that this is covered. There is not a problem as long as the Polk County understands that all members, professional or lay, need to have the demonstrated interest. A written confirmation is sufficient.

Action to Resolve: 1) confirm in writing that all existing board members currently meet and that all future board members must meet the minimum requirements of having a demonstrated interest in their local historic resources and their preservation and 2) update the ordinance in the future to reflect this.

4. Polk County Ordinance Section 4: "The local database will be made available to the public through the county website." We applaud Polk County's transparency and public access to inventory and other records relating to historic properties. Section 304 of the National Historic Preservation Act (54 USC 307103) mandates restrictions on the release of locational information when such disclosure might (1) cause a significant invasion of privacy; (2) risk harm to historic property; or (3) impede the use of a traditional religious site by practitioners. In other words, we don't want CLGs to give locational information to relic hunters.

Action to Resolve: 1) confirm in writing that, pursuant to Florida's Sunshine Laws and Section 304 of the National Historic Preservation Act (54 USC 307103), geographical data of archeological resources or other vulnerable resources will not be made publicly available and 2) update the ordinance in the future to reflect this.

5. Local Ordinance, Sec.6(g)(2): Nominations to the National Register of Historic Places. This provision states that the board shall forward its recommendation to the State Historic Preservation Officer. This provision requires some clarification to demonstrate compliance with the NHPA's requirement which requires that the CLG Commission prepare a report and send it to the chief elected local official who in turn transmits the Commission's report along with the official's opinion to the SHPO (54 USC 302504(2)(A)). We think that the purposes of this statutory provision are 1) to ensure that the chief elected local official sees the CLG Commission's Report before providing his/her opinion and 2) to ensure that the official's opinion and the Commission's report go to the SHPO as a part of a single package.

Action to Resolve: confirm in writing that 1) the chief elected local official receives the report before providing his/her opinion, and 2) the chief elected local official asks in writing that the Commission send the package to the SHPO on behalf of the official.

Everything else that you sent along for the Polk County's CLG application looks fine. As soon as you address the topics above, we will be able to move forward with Polk County's certification.

If you cannot satisfactorily address some of these topics, let us know. We can usually resolve the problem informally without requiring changes to local law and without holding up certification. Because of the general compliance provision(s) in the certification agreement, making the local government aware of the federal requirements is usually all that is needed.

Please let us know if you have any questions on these matters.

October 16, 2024

Mr. Ruben Acosta, Chief
Division of Historic Preservation
500 South Bronough, 4th Floor
500 R.A. Gray Building
Tallahassee, FL 32399-0250

Dear Mr. Acosta:

Re: Polk County, Florida CLG Certification Revisions

Polk County is excited to further historic preservation work in the county by finalizing the application to become a Certified Local Government. Below is written confirmation of topics addressed by the National Parks Service regarding the Polk County Certified Local Government application. The aid of the State Division is much appreciated, and we look forward to hearing your feedback.

Item 2

In compliance with the National Historic Preservation Act, the Chairman of the Polk County Board of County Commissioners is the chief elected official and as such, will sign the commission appointment documents, and other relevant documents related to the Historical Resources Advisory Board.

Item 3

In compliance with the National Historic Preservation Act, Section 7, the members of the Polk County Historical Commission, acting as the Polk County Historical Resources Advisory Board, currently meet the requirements of having a demonstrated interest, competence, or knowledge in their local historic resources and preservation as per 36 CFR 61.6 (e) (2). All future members, professional or lay, will also meet the minimum requirements and have a demonstrated interest in historic preservation.

Item 4

Pursuant to Florida's Sunshine Laws and Section 304 of the National Historic Preservation Act, Polk County confirms that geographical data of archeological resources or other vulnerable resources will not be made publicly available. Locational information will not be released for historical resources when disclosure might cause a significant invasion of

Letter to Mr. Ruben Acosta
Re: Polk County, Florida CLG Certification Revisions
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privacy, risk harm to historic property or impede the use of a traditional religious site by practitioners.

Item 5

In compliance with the National Historic Preservation Act, Polk County confirms that the Chairman of the Polk County Board of County Commissioners, as the chief elected local official, will receive a CLG Commission report for nominations to the National Register of Historic Places before providing his/her opinion. The chief elected local official will ask in writing that the Commission send the package to the State Historic Preservation Office on behalf of the official. This ensures that the official's opinion and the Commission's report go to the State Historic Preservation Office as a single package.

Sincerely,

_____, Chairman
Polk County Board of County Commissioners
Polk County, a political subdivision of the State of Florida