

**A SPECIAL MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER
AT 6:18 PM, OCTOBER 6, 2014 AT CITY HALL BY CHAIRPERSON BAILEY.**

PRESENT: Linda Bailey, Greg Butts, Andrew Assenmacher, Barbara Morris,
Mike Kerby

ABSENT: ~~Dean Smith~~, Paul Evans, Amy Vansen

ALSO PRESENT: Jane Bais-DiSessa, Alan Kideckel, John Staran (arrived later)

Item 1. Introduction of Mr. John D. Staran, City Attorney

Jane Bais-DiSessa gave an introduction of Mr. Staran in his absence. Mr. Staran arrived subsequently. Ms. Bais-DiSessa listed Mr. Staran's education and experience and pointed out that Mr. Staran will make himself available to the ZBA at any time upon our request. If he is unavailable, attorney Dan Christ, the city's prosecuting attorney, will substitute for Mr. Staran.

Item 2. Matter of clarification of opinion regarding ZBA meeting of Sep. 9, 2014 (BA-05-14)

Chairperson Bailey described the issue and facts as known thus far. Mr. Staran offered his explanation as to how he arrived at his opinion. The information he received was somewhat differing in the number of vacancies. He believed, also, that the ZBA did not have bylaws or rules of procedures that might indicate the issues of membership.

Mr. Kideckel and Ms. Bais-DiSessa believed that the mayor had received communications that Mr. Smith resigned from Planning Commission and ZBA.

Chairperson Bailey informed Mr. Staran that the ZBA does have rules of procedure in place to cover such issues. And that Mr. Smith had not resigned. There was discussion that there are emails indicating that Mr. Smith did not resign as well as discussion during the July ZBA meeting that he would be temporarily absent but would remain as a ZBA member. She also stated that there have been no written charges or public hearing to remove Mr. Smith from his membership on the ZBA, which is required per the MZEA. She discussed that PA 11 O as well as Berkley codes dictate when a member's term expires and that Council shall appoint a new member within 1 month per PA 110. Mr. Staran agreed.

Mr. Staran stated that it is his opinion that a ZBA is not acting unlawfully if there are vacancies on the board. There was further discussion that ZBA still lacks 2 alternates.

Ms. Morris pointed out that state law states that Council members can serve on the ZBA. Mr. Staran and Chairperson Bailey concurred. Chairperson Bailey stressed that she believes that it is inappropriate for ZBA members to "recruit" new members and that it is the City's responsibility to do so and to make appointments in a timely manner.

There was discussion about whether the ZBA could rehear the case. Chairperson Bailey stated that the only way to rehear the case is for the board to rescind the motion. Additional discussion centered around how that would be done.

Mr. Staran stated that in light of the new information gained from this discussion, the original declaration that the motion failed still stands.

Mr. Staran, Mr. Kideckel and Ms. Bais-DiSessa excused themselves to attend the City Council meeting.

There was further discussion by the remaining board members covering the information gleaned during the meeting. However, no decisions were made.

There being no further business, Chairperson Bailey adjourned the meeting at 7:30 PM.

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk.

The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days' notice to the City. Individuals with disabilities requiring auxiliary aids or services should contact the City by writing or calling: City Clerk, ADA Contact Berkley City Hall 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.