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Office of the City Clerk

BOARD OF APPEALS
Thursday, May 20, 2021
6:00 PM
Virtual Meeting

Minutes

1) Vice Chairl to Order, Roll Call

Chairman Massey called the meeting to order at 6:04 PM.

Present:

Chair Kathleen Massey
Vice Chair William Komisar
Board Member Thomas Flanagan
Board Member Ramona Larson
Board Member Robert Stern
Board Member Joseph Russell -- **Absent**
Board Member Lori Kornblum -- **Excused**

Also Present: City Clerk Caroline Fochs, City Attorney Brain Sajdak, press and interested public.

Chairman Massey explained the rules of virtual meetings per Mayor Wirth's Proclamation.

2) Approve meeting minutes of May 6, 2021

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Komisar
SECONDED BY: Board Member Stern

AYES: Massey, Komisar, Flanagan, Larson, Stern

3) Discussion

ORDINANCE 2021-1592 An Ordinance Amending Section 50-100 of the Mequon Municipal Code Relating to Sex Offender Residency Restrictions and Child Safety Zones and Amending Section 2-466 relating to the Powers and Duties of the Board of Appeals

Chairman Massey stated she called this Special Board of Appeals meeting because an eventual approval of **ORDINANCE 2021-1592** would impact the workload and the type of matters coming before the Board of Appeals, a board made up of volunteer residents. She noted that the

Board of Appeals' views/input have not been solicited nor considered in the deliberative process thus far and she instructed that the approved minutes of this meeting be provided to the Public Safety Committee and the Common Council for their information and consideration. She has advised City Attorney Sajdak that if this ordinance is approved and sexual offender residency appeals cases are sent to the Board of Appeals, in addition to the regular monthly meetings, she would not continue to serve on this Board.

City Attorney Sajdak provided background and stated that discussions have been ongoing at the Public Safety Committee level for months. Preliminary discussions led to the creation of **ORDINANCE 2021-1592** which proposed creating a separate board. The original ordinance included the creation of a separate body to review the appeals by sex offenders appealing residency rulings. The Mayor proposed not creating a separate Board but rather appointing the Board of Appeals as the body which would hear such appeals. The Public Safety Committee agreed. In preparation for this meeting, Mr. Sajdak prepared a list of all the various codes in the state with sex offender residency appeals provisions. Five ways were identified to address staffing such a board: 1) Governing body, 2) Sub-committee of governing body, 3) Zoning Board of Appeals, 4) Administrative Appeals Board, and 5) Create a separate Board. Standard procedure in Mequon has been to have a Board/Commission make recommendations to the Common Council. Mr. Sajdak further added that he has been called in to advise on 2-3 cases over his nearly seven-year tenure as City Attorney and that there is an offender awaiting the decision(s) on the ordinance. He clarified that if an offender did not reside here, they could petition the Chief and the Appeals Board for the ability to reside anywhere within Mequon. The Board's authority to rule is from Chapter 68, Municipal Administrative Procedures.

Board discussion ensued. Chairman Massey shared that through research she discovered the League of Wisconsin Municipalities does have training on sex offender residency restrictions and advocates not being a rubber stamp to deny exceptions and should include qualified members with professional experience to weigh the merits of each case. There are not special requirements listed on Mequon's ordinance at this time. Expertise in multiple disciplines would be needed to render a decision on the eighteen criteria listed and further fashion a decision on a conditional exemption. Listing of the sex offender board and its members on websites varies throughout Wisconsin. Many communities post informational packets, forms, or transcripts. Mequon currently has a 2000 foot buffer, which is the most restrictive in Wisconsin. The State uses a 1500 foot buffer. Could the more restrictive buffer make Mequon more of a target for appeals?

Attorney Sajdak confirmed that these appeals meetings could be both public and private, depending on specifics of the case. Some discussions would need to be in a closed session. Member Larson expressed concerns over releasing the names of Board members and videotaping appeals.

Current code mandates the original application goes to the Police Chief/Police Department, at which point the supporting information is gathered, reviewed, and a recommendation is made. It is this decision of the Police Chief that can be appealed. It was questioned whether elected officials would be more suitable to serve on an appeals board, rather than volunteers, because of politics or liability issues.

Discussion ensued on vetting membership and a Joint Intergovernmental Board opportunity that could be explored. The code does not require anyone to be an expert in these topics. In Mr. Sajdak's opinion all of the current Board of Appeals Members are unbiased and qualified to hear sex offender residency appeals. A Joint Board would help alleviate the politics and due process concerns as well as help in Board recruiting.

After all discussions were complete, the following Members indicated they will not be willing to continue their service if sex offender residency appeals will be delegated to the Board of Appeals: Chairman Massey, Vice Chairman Komisar, Member Flanagan and Member Larson.

Chairman Massey announced that she will not be available for the August meeting and Vice Chairman Komisar will be the Chair for that meeting.

4) Adjourn

Motion to adjourn at 7:22 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Komisar
SECONDED BY: Board Member Flanagan

AYES: Massey, Komisar, Flanagan, Larson, Stern

Respectfully Submitted,
Kathy Andrykowski
Deputy Clerk
Approved November 4, 2021