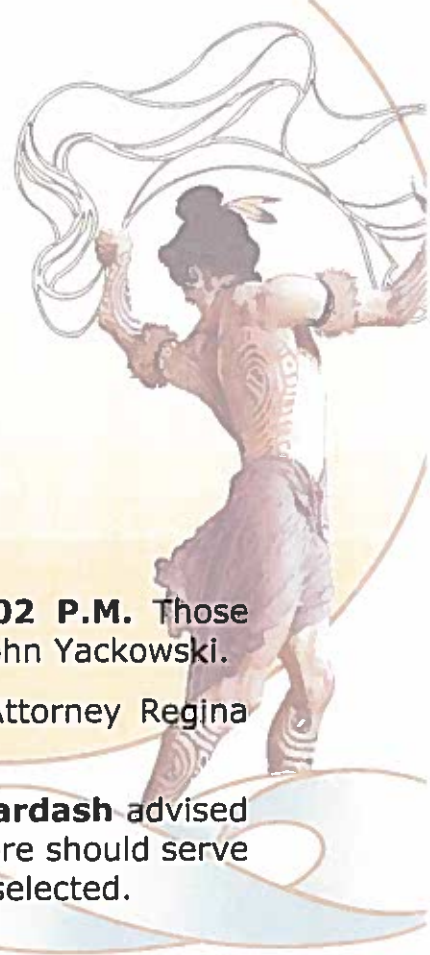


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Board of Adjustment & Appeals

Minutes - Friday, July 14, 2017

The Arts Council Ad Hoc Committee convened at 2:02 P.M. Those present were: Karl Olander; Lindsey Noble; Joe Tawil; and John Yackowski.

Also Present: Town Administrator Bonnie Dhonau; Town Attorney Regina Kardash; Georgia Tawil; and Town Clerk Stephanie Waters.

The Board has not met since July 2015. **Town Attorney Kardash** advised that Karl Olander was the Vice-Chair at that time, and therefore should serve as Chair of the meeting until after item #4 when officers are selected.

1. Approval of Agenda

Motion by **John Yackowski** – seconded by **Lindsey Noble**, to approve the Agenda for July 14, 2017. **Motion carried 4-0.**

2. Public Comments on any Agenda item

There were no comments.

3. Approval of Minutes of July 20, 2015.

Motion by **Lindsey Noble** – seconded by **Joe Tawil**, to approve the Minutes of June 20, 2015. **Motion carried 4-0.**

4. Organization of Officers

• Nomination of Chairperson

Motion by **Lindsey Noble** – seconded by **Joe Tawil**, to select Karl Olander as Chair of the Board. **Motion carried 4-0.**

Patrick C. Soranno
Mayor

Diantha Schear
Vice Mayor

Mike Hackerson
Councilor

Michael (Mike) Petruccelli
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

Terry E. Hughes
Chief of Police

Susan L. Scrogam
Director of Finance
and Personnel

Stephanie V. Waters, CMC
Town Clerk

Gregory Yantorno
Building Official

Regina Kardash, Esq.
Town Attorney

Motion by **Joe Tawil** – seconded by **Lindsey Noble**, to select Lindsey Noble as Vice-Chair of the Board. **Motion carried 4-0.**

5. Discussion of Sunshine Law and Public Records.

Town Attorney Kardash explained that the Sunshine Law applied to the members of the Board, as did the Public Records Laws, and that the meetings are also recorded because appeals of the decisions of the Board would go to Circuit Court.

Town Clerk Waters advised the Board to not reply all to emails due to these requirements, and to please reply directly to her.

Karl Olander asked about site visits by members of the Board to a property which is scheduled to be discussed at a meeting.

Town Attorney Kardash said a site visit is allowed if it is disclosed at the meeting and on the record.

Town Attorney Kardash explained that the Board conducts quasi-judicial hearings and so sits as judge essentially. She said they Board can only consider what is discussed and disclosed at the meeting, and any ex-parte communications must be disclosed on the record. She said it is important to tell the Board at the beginning of a meeting about any communications you have had regarding the case.

Town Attorney Kardash explained the requirements of an open, public meeting including notice of the meeting and the public's right to be heard. She also advised the Board of the Public Records requirements and recommended any email communications received about Board business be forwarded to the Town Clerk.

Joe Tawil asked how a meeting could be called if the Board is not allowed to communicate with each other.

Town Attorney Kardash said the Board members can contact the Town Clerk to coordinate a meeting, otherwise she would schedule them as applications are received.

Mr. Tawil asked what the consequences would be if the Board disagrees with the Building Official, and if they would be liable for making a decision that is overturned by the Circuit Court.

Town Attorney Kardash explained the Board has immunity if they are acting within their purview. She also explained the difference between this Board, and the Planning, Zoning and Building Committee's responsibilities.

6. Discussion regarding Rules of Procedure, including Quasi-judicial proceedings

Town Attorney Kardash began to review the draft procedures for the Board she had developed and the Resolution process. She discussed the amount of time the Board could allow for arguments.

Mr. Noble recommended the Town Clerk keep time during the meetings and that she track the time used by each party.

Town Attorney Kardash explained the oath given to those who will speak. She also explained that she serves as the Attorney for the Board, but that sometimes there may be a separate Attorney for the Building Official, since decisions may be appealed to the Circuit Court.

Mr. Tawil asked about the Sunshine Law and communications with the attorney.

Town Attorney Kardash explained she is their attorney, and communications with her are not subject to Sunshine. She further explained the proposed rules to disclosing ex-parte communications, as well as how hearsay applies in these proceedings.

Town Attorney Kardash advised the Board they can ask whatever questions they would like, that the public can speak even if not a party to the matter, and that the Board can suspend the rules if they feel more time is needed to get the information they want to decide.

Mr. Olander asked about Robert's Rules.

Town Attorney Kardash reviewed the basic procedures of a meeting and said she would provide the Board with a Robert's Rules cheat sheet.

The Board discussed the proposed rules, and agreed the rules would make the process clearer and that they found it helpful to them as the people running the meetings.

Motion by **Joe Tawil** – seconded by **John Yackowski**, to approve Resolution BAA-01-2017. **Motion carried 4-0.**

7. Open discussion

Mr. Olander commented that the Board did not have much leeway due to the nature of the hearings.

Mr. Tawil said he felt it important to stick close to the law.

Mr. Noble said he can remember only one hardship case, and there would have to be a very, very good reason to grant a hardship.

Town Attorney Kardash said that one decision does not necessarily create a precedent, but continued decisions of the same nature could.

Georgia Tawil said she hopes the Board will listen to what is said but also remember the rules are written for a reason. She said as a member of the public she supports the Board not deciding to deviate from the rules.

8. Set time and date for next meeting.

Town Clerk Waters advised the Board that an application for an Administrative Review had been received, and the hearing would be scheduled for August 16th at 1 p.m.

Motion by **Lindsey Noble** – seconded by **John Yackowski**, to adjourn the meeting. **Motion carried 4-0.**

The meeting adjourned at 3:08 p.m.


Stephanie V. Waters, CMC
Town Clerk