TO: Chairman David Lambert and Members of the Zoning Board of Appeals
FROM: Susan M. Lancaster, Assistant City Attorney SML
DATE: November 9, 2011
SUBJECT: Minutes of Zoning Board of Appeals Meetings

The Zoning Board of Appeals has asked the City Attorney's Office to research the state statutes regarding the type of minutes required for Zoning Board of Appeal meetings. There is also a concern by the Zoning Board of Appeals as to the sufficiency of our current "resolution and vote" minutes for litigation purposes.

The Michigan Zoning Enabling Act, specifically MCL 125. 3602(2), states as follows:

> "The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the legislative body."

Additionally, the Open Meetings Act, which controls certain public meetings, such as meetings of a zoning board of appeals, states:

> "Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, and decisions made at a meeting open to the public and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction". MCL 15.269.

Neither of these statutes requires a summary of discussions which have taken place during the meeting. Therefore, the minutes of the Zoning Board of Appeals meet all the requirements of the Zoning Enabling Act and the Open Meetings Act.

With City Council approval, the City Attorney's Office defends law suits filed against the City or its Boards involving planning and zoning issues, including appeals from decisions of the Zoning Board of Appeals. Zoning Board of Appeal decisions are also relevant to other types of law suits handled by the City Attorney's Office. For example, the existence of variances on specific parcels must be considered in valuing the fair market value of property in condemnation cases. The City Attorney's Office would not rely on minutes alone in a court action. A copy of the video tape of the subject meeting(s) would be ordered and transcribed by our office and/or the opposition. Therefore, the use of "resolution and vote" minutes is acceptable to the City Attorney's Office.