

Memo

To: City Council
From: Bryan Myrkle, Community Development Director
Date: October 9, 2015
Re: Building Board of Appeals & Fire Appeals ordinances

On your agenda for the next meeting are two new ordinances that you authorized City Attorney Hitch prepare.

One ordinance creates a new Building Board of Appeals, and the other designates this new board as the city's board that would hear appeals of Fire Code decisions. As you may remember, the need for these two new ordinances arises from the recent elimination of the former Zoning Board of Appeals, whose duties were assumed by the City Council.

While the City Council is a reasonable body to entertain appeals of zoning code decisions, they would not be qualified to hear building and fire code appeals. Public Act 230 of 1972 (section 125.1514) specifically requires that members of a building board of appeals "be qualified by experience or training to perform the duties of members of the board of appeals."

And, while it's certainly possible that individual members of the City Council might be qualified by experience or training to render judgments on building and fire code matters, it's very unlikely that all seven elected members would meet these requirements at any given time.

There is an issue associated with the redevelopment project at the Masonic Temple that may trigger the need for an official fire code decision. The issue relates to the State Historic Preservation Office's desire to see the existing windows maintained as part of the project, and

the Mason's desire to replace those windows. A fire board of appeals may be needed to evaluate the safety of the old windows.

Because this is an issue of public safety, it's important that it be evaluated and adjudicated according to both the spirit and letter of the law. Placing this issue before the City Council in its role as Zoning Board of Appeals would not do that.

The framework developed by Attorney Hitch, constituting a new board with qualified members that can serve as both the Building Board of Appeals and a Fire Board of Appeals would solve this issue. The timing is prompted by the specific issue regarding the Masonic Temple project, but would serve the City's best interests for the long term.