



## Royal Oak Review (MI)

### **Ferndale city officials dismiss ZIP claims as 'legally baseless' Zoning group had asked three council members to withdraw from SOS vote on Aug. 10**

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Published: August 5, 2009

FERNDALE - The ongoing saga in the **South Oakland Shelter's** planned move to Ferndale took another twist when the Zoning Integrity Protection (ZIP) Association of Ferndale sent a letter to the City Council asking that three of its members abstain from voting when the special land use application and site plan submitted by SOS comes before the council on Aug. 10.

In the letter, ZIP member Michael Bates, citing the Michigan Zoning Enabling Act 110 of 2006, wrote that Mayor Craig Covey, Councilman Scott Galloway and Councilwoman Kate Baker should recuse themselves from the vote due to their previous voting records as well as various "conflict (s) of interest."

However, City Manager Bob Bruner called ZIP's suggestions of impropriety "completely, legally baseless. This person, who is not an attorney, has totally misread the state statute. There's nothing here - they're just grasping at straws."

During a phone interview, Bates, on behalf of ZIP, stood by his assertion that Galloway, Baker and Covey would be acting improperly by casting their votes on Aug. 10. "I'm not a lawyer - I'm just a hardworking guy who loves his neighborhood and wants it to stay a nice place," he said. "The (SOS) location should be in a commercial district, not in a residential neighborhood. We're just upset that the city has chosen to ignore that and do whatever they want to do."

SOS has been working with the city since the beginning of the year to relocate its existing offices in Royal Oak to an empty former education building at the First Baptist Church of Ferndale, 1841 Pinecrest Drive. But a group of residents who live in the neighborhood surrounding the church have protested the move and created ZIP this spring as a way to formally dispute the city's handling of the controversial issue.

But ZIP's efforts suffered a major blow on July 16 when the Plan Commission voted unanimously to recommend the special land use application and site plan submitted by SOS - should a series of 11 conditions be met - for the council's final approval. Bates' letter to council is dated four days after the Plan Commission's decision was made.

In the letter, he argued that Covey should not vote as a council member because Covey has already voted on the issue as a member of the Board of Zoning Appeals. He cited a passage from the state zoning act, which states that a member of a government body "shall not participate in a public hearing on or vote on the same matter" that the member voted on as a member of another government body.

City Attorney Dan Christ contended that ZIP's interpretation of the law is inaccurate. "I disagree with the conclusions that Mr. Bates reaches regarding Mayor Covey," he said. " (Covey) previously voted on a zoning determination, not a special land use application. They are two completely separate issues." The letter also asserted that Baker had already voted on SOS's special land use application as a member of the Plan Commission, but Baker pointed out that she was not even present at the July 16 meeting when votes were cast.

ZIP's main concern with Galloway and Baker, however, stems from their comments at previous council meetings voicing support for SOS. In his letter, Bates stated that both officials either serve or have served as volunteers for SOS in the past and are thus unfairly biased in the organization's favor.

"We don't think that council members should be able to vote when it is about something they support on a personal level," he said in the phone interview.

"This decision should be made on a purely legal level." Galloway confirmed that he has volunteered a handful of hours to SOS over the past several years as a parishioner at the Drayton Avenue Presbyterian Church. Baker, meanwhile, said that she has never served as an SOS volunteer, although her mother has been a longtime donor to the shelter.

In addition, Christ again disputed ZIP's argument and questioned the group's understanding of the legal definition of the term "conflict of interest." "Members of council are entitled to have an opinion on the issues they are voting on," he said. "There is nothing wrong with that. In my opinion, that does not constitute a conflict of interest that would be disqualifying.... In general, conflict of interest refers to a situation where an official would gain a direct benefit - a personal interest - from the decision."

For Galloway, who works as a real estate attorney by day, the ZIP accusations are "completely without merit." He pointed out that he stands to gain no financial benefit if SOS should move to Ferndale and that he is not an employee of the organization nor a member of its board of directors. "I am not duty-bound to SOS, and neither is Kate or Craig," he said. "This is not a close call at all. This whole thing with ZIP is a ridiculous standard, and it's not the standard to which elected officials are held.

ZIP is trying to find technicalities to either derail this decision or further delay the proceedings." Christ added that while there is often a lot of gray area regarding legal questions of impropriety, the bottom line in this case is very clear: "From what I've seen and heard, in my opinion, there should be no obligation for any members of council to recuse themselves from voting on this issue."

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