

2009 Non-Mandated Expenditures Department Response

DEPARTMENT: Hamilton County Board of Zoning Appeals
DEPARTMENT HEAD Ronald A. Panioto Jr.
OCA TITLE: Administrator

Hamilton County departments and agencies have the opportunity to respond and provide insight to the Office of Budget and Strategic Initiatives (BSI) initial assessment as to non-mandated services. This response form should be used for each specific BSI assessment; not a general response for entire department. Take as much space as necessary for each question.

1. Are there elements of the BSI non-mandated services that you believe are mandated?

ORC 303.13 provides in part... The Board of Zoning Appeals may, within the limits of moneys appropriated by the Board of County Commissioners for the purpose, employ such executive, professional, technical, and other assistants, as it deems necessary.

Currently, the BZA consists of the mandated (5) Board Members, (2) Alternate Board Members and the Administrator of the department. The Administrator handles the day-to-day operation of the department. The current Board Members meet all requirements of the staffing criteria / requirements as established by ORC 303.13.

2. Who are the recipients of the service or activity for the non-mandated service? How many recipients

The BZA customers are residents of Columbia, Green, Harrison and Miami Townships. These residents make applications for Variances, Appeals, Conditional Uses and Non-Conforming Uses that are not in compliance or are required by the provisions of the Zoning Resolution. Currently, in 2008, the BZA will process and hear 40 to 50 cases. The Board's Administrator processes all cases to be heard by the BZA.

3. Are there county revenues associated with the non-mandated services?
Application fees are collected and deposited into the county's general fund by the department.

The fee schedule for the BZA was adopted within the Zoning Resolution by the County Commissioners in 1996 and is update automatically by 3% percent annually.

4. If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County?

If the county did not provide the services of the BZA department, then there would not be the availability for the applicants to seek relief from the restrictions/requirements of the Zoning Resolution. The only other relief would be Township zoning within the area currently administered by the County. This would require the adoption of Township Zoning by a vote of the residents within the Township.

5. Does the non-mandated service include Board of County Commissioner policy via resolution or motion?

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Yes, by the provisions established by the Zoning Resolution adopted by the County Commissioners. Within the Zoning Resolution, there are several references to the BZA, and specifically the following Chapters and Sections.

19-4 BOARD OF ZONING APPEALS.

19-4.1 Creation. The County Board of Zoning Appeals is created pursuant to Section 303.13 of the Ohio Revised Code.

19-4.2 Membership. The Board of Zoning Appeals consists of five (5) members, appointed by the Commissioners, who must be residents of the unincorporated territory of Hamilton County included in the area zoned, not more than two of whom must be from any one Township if the area zoned includes three (3) or more Townships. The Terms of all members must be of such length and so arranged that the term of one member will expire each year. Each member serves until a successor is appointed and qualified. Vacancies are filled by the Commissioners and are for the unexpired term.

19-4.3 Jurisdiction and Authority. The Board of Zoning Appeals has the following powers and duties in connection with the implementation of this Resolution:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or Determination made by an administrative official in the enforcement of this Resolution pursuant to the Procedures and standards set forth in Chapter 22;
- b. To authorize variances from the terms of this Resolution pursuant to the procedures and standards for variances set forth in Chapter 21;
- c. To decide conditional use requests pursuant to the procedures and standards set forth in Chapter 17.

19-4.4 Officers. The officers of the Board of Zoning Appeals are a Chairman and a Vice-Chairman and such other officers as it may provide for in the adopted Organization, Procedure and Rules and Regulations of the Board. Hamilton County Zoning Resolution Page 19-5

19-4.5 Minutes; Records. The Board of Zoning Appeals holds meetings and keeps a record of all meetings in the manner prescribed in the adopted Organization, Procedure and Rules and Regulations of the Board.

19-4.6 Quorum and Vote. The quorum of the BZA and matters requiring a vote are defined in the adopted Organization, Procedure and Rules and Regulations of the Board.

21-2 AUTHORITY.

The Board of Zoning Appeals, pursuant to Section 303.14 of the Ohio Revised Code, shall have the authority to grant variances from the provisions of this Resolution, but only in compliance with the procedures, specific Instances, and in accordance with each of the standards enumerated in this Chapter.

21-4 PROCEDURE.

21-4.1 Application.

An application for a variance shall be filed with the Administrative Official of the Board. Application requirements are contained in Appendix 9 of this Resolution.

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21-4.2 Public Hearing.

Upon receipt of a complete application for a variance, the Board of Zoning Appeals shall, within a reasonable length of time but no longer than sixty-two (62) days from the receipt of the application, hold a hearing. Notice of the public hearing shall be given in writing to the property owners within 200 feet of the subject property and by one (1) publication in one or more newspapers of general circulation in the County, at least ten (10) days before the date of the public hearing. Upon the hearing, any party may appear in person or by attorney.

21-4.3 Action by Board of Zoning Appeals.

Within thirty (30) days following the close of the public hearing, the Board of Zoning Appeals shall render its decision, granting or denying the variance pursuant to the standards and procedures set out in this Chapter. The Board may delay its decision pending revised plats or plans that may be required.

21-4.4 Special Procedures in Connection with Other Applications.

Whenever it is determined a variance is needed in addition to a Zone Amendment, Conditional Use approval or Zoning Compliance Plan approval, the Board of Zoning Appeals shall not decide an application for such variance until a final approval has been rendered by the Rural Zoning Commission and/or the Board of County Commissioners, as applicable.

6. Are there contracts or agreements that preclude the elimination of a non-mandated service? If so, please provide the specific language as to termination and/or amendment terms.

This department does not contract with the Townships.

7. What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment).

The support for the data system (i.e. pc's etc.) is provided by the RPC/RZC departments. Other equipment would be furniture.

8. Do any of the non-mandated services include employees represented by a bargaining unit? If so, please note the union and provide information as to reduction-in-force and job abolishment considerations.

No.

9. For positions within non-mandated services, are there are special circumstances that preclude a traditional job abolishment process? Separation costs will be addressed centrally including leave balance payouts, unemployment compensation and severance (based on current Commission policy).

Currently, the only FTE is the Administrators position. If the FTE was abolished, the department would not be represented on a day-to-day basis. The ability for the department to process revenue and caseload would not exist. Applicants/residents would not have the ability to file for Appeals, Variances etc. seeking relief from the requirements of the Zoning Resolution. The Board of Zoning Appeals has always followed the County Commissioners Personnel Policy and abolishment of position(s) have and will continue to follow the adopted personnel policies of the Board of County Commissioners.

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10. In addition to positions associated with non-mandated services, the Budget Office included a review of management layers, support staff, and currently vacant positions. Please comment on the impact of eliminating these positions.

Currently, there is only one vacant position within the Department. The vacant position is for an Alternate Board Member. Prior to the adoption of the 2008 Budget, the BZA had an administrative secretarial position that was funded by three departments. (RPC / RZC & BZA). With the adoption of the 2008 Budget, that position was eliminated/abolished and the only remaining FTE is the Administrator. With the position eliminated, the remaining FTE has to be present to process the day-to-day activities of the department. A prolonged absence of the one FTE would not allow the department to process applications, accept cases for hearing, etc.

11. What is the performance impact of not providing the non-mandated service? For example, wait times, waiting lists, caseloads, operating hours and other consequences of not providing the service.

The applicants/residents of the represented Townships would not have an avenue of relief from the provisions / requirements of the Zoning Resolution. Legal advertisements are mandated by ORC 303.15 and requires that a legal advertisement must appear in a newspaper of general circulation with 10 days of the hearing date. Additional delays in scheduling of cases would result in a delay in a resolve for a particular case (by and up to 3months as opposed to 3 to 4 weeks at present.)

12. Are there any alternatives that result in savings to the general fund?

None that has not already is imposed on the department other than Township Zoning. Township Zoning would transfer the current costs of BZA & RZC to each individual Township. Traditionally, this Department has always been maintained within the previous approved Budgets for the department.

13. Are there more efficient ways to deliver a mandated service that may allow the savings to offset the cost of a non-mandated service?

The only avenue would be Township Zoning that would have to be approved by voters within the Township. Once Township Zoning is adopted within the Township, they then would establish Township Zoning Enforcement, Board of Zoning Appeals and issuance of Zoning Certificates etc.

14. Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)?

None as of now.

15. Does your department have any fees that could be raised to offset the cost of a mandated service?

All fees collected by the department are subject to increases if approved by the County Commissioners.

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Currently, the Zoning Resolutions have provisions to allow an increase of fees as well as an automatic cost of living increase to the fee schedule. Traditionally, the BZA has raised its fees by 3% since the adoption of the new version of the Zoning Resolution adopted in 1996.

Other Considerations and Comments:

With the submittal of the Administrators 2008 Budget, the adoption of the 2008 Commissioners Budget, the 6% mid year reduction, this Department has reduced its operating budget by 30% over the 2007 adopted budget. The projected 2009 Budget is \$69,511.00. This amount is about \$2,800 less than the 1996 Budget for the Department. Within the adopted budget of 2006, the BZA had meeting/hearings twice a month or 24 meetings a year. In 2007, the Department reduced the number of meeting/hearings to 16 per year. With the BSI /Administrators recommendations for 2008, the number was reduced to 12 per year.

In 2008, the BZA consists of 7 part time Board Members (5 regular members, 2 alternate Members and one Board Administrator that is the only FTE for the department. At present the BSI is suggesting that the departments only FTE be reduced to a part time basis. Without the FTE, applicants and residents of Hamilton County would not have the ability to get relief from the requirements of the Zoning Resolution.

The department has endured the abolishment of one position in 2008 making it very difficult for the only FTE to maintain its services to its customers of Hamilton County. Because of the mid year reduction of 6%, the FTE is not compensated for mileage to take pictures of future development or violations that are filed with the department. If the department were operated on a part-time basis, there would be further delays in the processing of cases submitted to the Board for consideration. Legal advertisement time periods could be in jeopardy for processing and therefore causing cases to wait until the next month for a public hearing. This would then mean that it would be feasible for a case to take 8 weeks to process, when it is on average 3 weeks at present. This would further delay construction projects by about 3 months and therefore development would be slower and more costly than at present.

While, this Department understands the difficult budget times the county finds itself in, the BZA has reduced its operating budget as low as possible. The provisions of ORC 303.13 (provides in part) that the County Commissioners shall appoint a Board of Zoning Appeals. It further indicates the BZA Board Members may within the moneys appropriated employ such executive, professional, technical and other assistants, as it deems necessary.

One possible recommendation would require that all Townships adopt Township Zoning within the next five years. If Township Zoning is approved by the voters, then the Townships (involved) would have enough time to approve a Zoning Resolution as well as staffing for the Township Zoning. If this was to be implemented the savings to Hamilton County would be about \$500,000.00 per year.