

JOB EVALUATION REPORT

Finance and Personnel Committee Meeting Date: March 21, 2018

Board of Zoning Appeals

Current	Request	Recommendation
Administrative Officer, BOZA PR BC2 (\$52,945)	Study of Position	Administrative Officer, BOZA PR BC2 (\$39,866) Delete footnote that provides the same percentage increases as approved for officials and administrators.

Action Required – Effective Pay Period 9, 2018 (April 22, 2018)

In the Salary Ordinance, under Pay Range BC2, delete the footnote designation "(1)" after the title "Administrative Officer, BOZA" and the footnote in its entirety; and delete the rates and replace with the following:

Biweekly	1,533.30
Annual	39,865.80

Background

The Common Council has requested a study of the compensation level for the Administrative Officer, BOZA (Board of Zoning Appeals) position. The Board of Zoning Appeals hears and decides appeals related to zoning ordinances and makes decisions regarding special use and variance requests. This position performs administrative functions pursuant to the direction of the Board and drafts decisions, findings, and orders for consideration by the Board. The current incumbent also serves as the Chairman of the Board.

The following Milwaukee Code of Ordinance provisions (295-311) are relevant in conducting the analysis and review of this position:

- The incumbent of the Administrative Officer, BOZA position must be a member of the Board of Zoning Appeals.
- At least one member of the Board shall be licensed to practice law in the state of Wisconsin.
- The Mayor designates one of the Board members as chairperson.
- The Board may designate one of its members who shall be licensed to practice law in the state of Wisconsin, as its administrative officer to perform administrative functions pursuant to the directions of the board and to draft decisions, findings, and orders for consideration by the board.

For the past 20 years, the incumbents of this position have served as both the Chairman, Board of Zoning Appeals and as the Administrative Officer, BOZA. This model has supported the administrative and operational requirements and key responsibilities of the positions. It is important to note that since the person who serves as Administrative Officer, BOZA is required to be licensed to practice law in the state of Wisconsin and must review items on the agenda in detail to fulfill their function as the Administrative Officer, this person is most likely to be in the best position to serve as Chair and identify and address any legal issues that arise during meetings.

To understand the volume and complexity of the work performed by this position, discussions were held with the current incumbent. The study also included a review of various sections of the Milwaukee Code of Ordinances, Salary and Positions Ordinances, a number of Milwaukee Plan and Budget Summary books as well as relevant classification reports and minutes from meetings of the Board of Zoning Appeals. One BOZA meeting was observed in person and another Common Council Committee meeting was listened to on tape. Information was also obtained from former staff members of the BOZA office and Department of City Development employees.

Duties and Responsibilities

Based on information gathered in discussions with the current incumbent, the main duties and responsibilities of this position are summarized below:

- Oversee the work of the Board of Zoning Appeals (BOZA) staff and directly supervise and manage the work of the BOZA Administrative Coordinator, who functions as the manager of the office.
- Plan and Chair twelve BOZA meetings per year averaging 3½ to 4 hours in length. Each meeting agenda includes approximately 30 hearings regarding special uses and/or variances.
- Identify potential legal issues related to items on the agenda, research case law and consult with the assigned Assistant City Attorney on a regular basis. Recommend the Board request formal City Attorney's opinion for a particularly complex or difficult issue on an as needed basis.
- Run meetings in an effective and consistent manner and ensure the preparation of a well-documented record of the decisions made. Address and respond to any legal issues that may come up during the meeting.
- Carefully review all decisions, make sure specific conditions are clearly described, and sign those decisions.

The requirements for this position are established by City Ordinance 295-311(c) and include being a current member of the Board of Zoning Appeals and a having a license to practice law in the state of Wisconsin. Knowledge of zoning laws and experience running or participating in administrative hearings are critical qualifications for the position.

Timeline

The following timeline summarizes relevant actions that have impacted this position over the last 30 years.

April 1988 – A City Ordinance relating to performance of the administrative functions of BOZA was approved. It added the language "At least one member shall be licensed to practice law in the state of Wisconsin" and "The board may designate one of its members, who shall be licensed to practice law in the state of Wisconsin, as its administrative officer to perform administrative functions pursuant to the direction of the board and to draft decisions, findings, and orders for consideration by the Board." The staff for the Board of Zoning Appeals at that time consisted of one Administrative Services Specialist, one full-time position of Clerk Stenographer III and two part-time positions of Clerk Stenographer III.

April 1988 – A new rate of pay is approved by the Common Council for the Chairman, Board of Zoning Appeals that increases the biweekly salary from \$193.31 (\$5,039.85 annually) to \$958.90 (\$24,999.87 annually). According to a letter to the file the justification for the increase stemmed from an increased workload and a wish to recognize the expanded role the position played in framing orders, providing daily supervision of the office, conducting hearings and making legal decisions. The recommended compensation rate was based on the following formula: 67% of an hourly rate of \$75 which was the rate paid to outside attorneys. Assuming 500 hours of work per year, the compensation rate was established at \$24,999.87

January 1990 – The administrative staff for the Board of Zoning Appeals and related services and equipment moved to the Department of City Development to allow for better backup and control of staff functions.

March 1995 – A new rate of pay for Chairman, Board of Zoning Appeals was established. It increased the biweekly compensation from \$950.90 (\$24,999.87 annually) to \$1,380.82 (\$35,999.95 annually). The change also included a provision that the position would be eligible to receive the same percentage increases as approved for management positions. This recommendation considered the position's unique requirements both in terms of the hours worked compared to other Board and Commission members and the high degree of subject matter expertise provided by the incumbent. Although there was some interest in adding this position to the Management Pay Plan and making it eligible for fringe benefits, the Department of Employee Relations did not support those recommendations.

The new compensation rate was again based on prorating the usual rate for outside legal counsel and the estimated number of hours worked (40-60 hours per month). The report also stated that providing the same percentage increase as approved for management positions was going to allow it to retain the same relative pay in the overall classification structure.

April 1995 – An Across the Board increase of 3.0% retroactive to Pay Period 1 of 1995 is approved and the rate increased to \$1,422.24 biweekly (\$37,079.80 annually).

January 1996 – An Across the Board Increase of 3.0% is approved and the rate increased to \$1,464.91 biweekly (\$38,192.29 annually).

June 1997

- Under Pay Range 047 of the Salary Ordinance, the title “Chairman, Board of Zoning Appeals” is deleted and the title “Administrative Officer, Board of Zoning Appeals” is added. This is the result of a number of changes with the Board of Zoning Appeals including a change in leadership. As a result the higher salary is now linked with the title of “Administrative Officer, Board of Zoning Appeals”.
- A City study was conducted on how to improve the process for the public when obtaining permits; and for development and plan reviews. Recommendations included consolidating and coordinating the functions among departments to make the process more customer-friendly. This resulted in the creation of the Development Center in the Department of City Development and the Permit Center in the Department of Building Inspection (now the Department of Neighborhood Services). With this reorganization of functions, some of the Plan Examiner positions moved to the Department of City Development. To have the Plan Examiner positions who may say “no” to a permit be in the same department as the Board of Zoning Appeals would cause a conflict of interest.
- An ordinance relating to establishing the Board of Zoning Appeals as a separate unit is approved. Under City Ordinance 295-311(c) “The board shall constitute a separate, independent budget control unit in city government”. As a result, the administrative staff is taken out of the Department of City Development. The staff consists of an Administrative Specialist in Salary Grade 02, one full-time position of Office Assistant III and two part-time positions of Office Assistant III.

January 1998 – An Across the Board increase of 2.75% retroactive to Pay Period 1 of 1997 and another Across the Board increase of 2.75% retroactive to Pay Period 1 of 1998 was approved. The new rate for the Administrative Officer, Board of Zoning Appeals in Pay Range 047 was increased to \$1,546.59 biweekly (\$40,321.81 annually).

July 1998 – An ordinance relating to the procedures for reviewing variances and special uses is approved. Under City Ordinance 295-59 the action eliminated the requirement that, for most special uses, the Board of Zoning Appeals may make a determination only after receiving a report from the City Plan Commission. They must, however, receive reports from the Department of Public Works, Department of Neighborhood Services, Department of City Development and the Alderman of the District involved. No decision may be made without these reports unless 30 days have elapsed since the parties were notified. This action also increases the minimum required distance for identifying property owners to be notified and changes the findings that the board is required to make when deciding a special use request.

September 1998 – A new position was added to the administrative staff and is classified as Program Assistant I. This position assists the Administrative Specialist with all duties and serves as a backup for the Secretary of Record at the BOZA hearings.

November 1999 – The reclassification of Administrative Specialist in Salary Grade 02 to Secretary, Board of Zoning Appeals in Salary Grade 04 is approved. The rationale was that this position was overseeing and administering the work performed by the new Zoning Administration Group; preparing the departmental budget; and supervising the office support employees. The Zoning Administration Group was created in 1998 to help streamline the appeals process through BOZA and consisted of City employees in the areas of planning and engineering who review each of the appeals and make recommendations to the Board.

1999 – 2014 – Across the Board increases continue to be approved and the rate as of Pay Period 14 of 2014 was increased to \$2,036.35 biweekly (\$52,945.10 annually). When the Salary Ordinance was revised in 2012 the Pay Range changed from 047 to BC2 but the rate stayed the same.

March 2014 – The Secretary, Board of Zoning Appeals is reclassified to BOZA Administrative Coordinator in Pay Range 1CX (equivalent to the old Salary Grade 06). The rationale was that the scope of duties and level of responsibility increased in the areas of technical expertise on interpretation of the zoning code, staying current with federal and state land use changes, and representing the Board to department heads, elected officials, City staff and the public.

Analysis and Recommendation

As can be seen by the timeline presented above, the work of the Board of Zoning Appeals has evolved over the past few decades and so have the organizational structure and the roles and responsibilities of the staff assigned to the office. In addition to the reorganizations and ordinance changes, a number of efficiencies have impacted the work of the staff, including: the implementation of a consent agenda that has significantly shortened the length of the meetings, the use of EBooks by Board members, and the consolidation of services between departments that has resulted in better coordination regarding BOZA agenda items.

The staff responsibilities have evolved and administrative and operational responsibilities previously performed by the position under study have been delegated to the BOZA Administrative Coordinator who functions as the manager of the BOZA office. Over time, the office manager position has become stronger. The position was reclassified three times and is now at a level that recognizes the increased scope of managerial and supervisory responsibilities associated with overseeing the work of the office staff and the administrative and operational responsibilities of the office. In addition, this position is now expected to provide technical expertise on interpretation of the zoning code, stay current with federal and state land use changes, and represent the Board to department heads, elected officials, City staff, and the public. As a result the Administrative Officer, BOZA position is less involved with the day-to-day operations of the office.

In the past, the rate of pay for Administrative Officer, BOZA position has been based on a percentage of the rate for outside legal fees and a conservative estimate of the number of hours worked. The rate for outside legal fees in the City Attorney's Office varies depending on the area of expertise and the amount of experience required to perform a particular assignment. A standard rate for an attorney with some experience is approximately \$200 per hour. However, as this position under review is not compensated on an hourly basis a formula that relies on an hourly fee is not recommended.

To determine the appropriate compensation level, this review considered the pay structure for Assistant City Attorneys in the City Attorney's Office. The classifications and corresponding pay levels are summarized below.

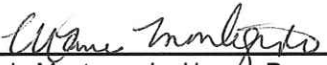
Title	PR	Rates
Assistant City Attorney I	2IX	(\$58,462 - \$81,844 annually) (\$28.11 - \$39.35 hourly)
Assistant City Attorney II	2KX	(\$66,435 - \$93,010 annually) (\$31.94 - \$44.72 hourly)
Assistant City Attorney III	2MX	(\$75,478 - \$105,669 annually) (\$36.29 - \$50.80 hourly)
Assistant City Attorney IV	2OX	(\$85,757 - \$120,064 annually) (\$41.23 - \$57.72 hourly)
Assistant City Attorney V	2QX	(\$97,420 - \$136,395) (\$46.84 - \$65.57 hourly)

Entry level Assistant City Attorneys can have up to 3 years of experience. Work responsibilities at this level are limited in scope and are performed within a well-established framework under general instructions and supervision. At the journey level (Assistant City Attorney III), employees are required to have at least 5 years of experience and the work responsibilities are specialized in scope and require in-depth knowledge of a particular subject area. At this level, limited guidance is provided and employees are expected to independently perform assignments. At the advanced level (Assistant City Attorney V) employees are required to have over 7 years of experience and assignments involve the highest level of legal complexity carrying policy ramifications of a highly visible and sensitive nature.

Based on the duties and responsibilities listed above, the complexity of the work performed by the BOZA Administrative Officer is consistent with that associated with the "advanced" level of Assistant City Attorney V. The annual compensation level for a fulltime employee at 60% of the range is \$120,805. This 60% of the range rate is consistent with the maximum recruitment rate authorized in the Salary Ordinance for most professional level positions.

As the number of hours worked by the BOZA Administrative Officer position on a monthly basis represents approximately 33% of a full time equivalent position (using a median of 55 hours per month for a total of 660 hours in one year), it is recommended that the annual compensation for this position be adjusted to \$39,866. This figure represents 33% of the annual salary of an advanced level attorney at 60% of the pay range.

It is further recommended that the footnote that provides automatic increases when officials and administrators receive an across the board percentage increase be deleted. This recommendation will ensure that the position is treated the same as other Board and Commission members for purposes of salary.

Prepared by: 
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